

DOE

VS.

THE METRO GOVERNMENT OF NASHVILLE, et al.

CHRIS HENSON

February 28, 2022



Jenny Checuga, RPR, LCR

Chattanooga (423)266-2332 Jackson (731)425-1222
Knoxville (865)329-9919 Nashville (615)595-0073 Memphis (901)522-4477

www.elitereportingservices.com

<div>1 IN UNITED STATES DISTRICT COURT FOR TENNESSEE</div> <div>2 FOR THE MIDDLE DISTRICT</div> <div>3 NASHVILLE DIVISION</div> <hr/> <div>4 JANE DOE,</div> <div>5 Plaintiff,</div> <div>6 vs.</div> <div>7 THE METROPOLITAN</div> <div>8 GOVERNMENT OF NASHVILLE</div> <div>9 AND DAVIDSON COUNTY,</div> <div>10 TENNESSEE and DR.</div> <div>11 ADRIENNE BATTLE.</div> <div>12 Defendants.</div> <hr/> <div>13 DR. LILY MORENO LEFFLER,</div> <div>14 Plaintiff,</div> <div>15 vs.</div> <div>16 THE METROPOLITAN</div> <div>17 GOVERNMENT OF NASHVILLE</div> <div>18 AND DAVIDSON COUNTY,</div> <div>19 TENNESSEE and DR.</div> <div>20 ADRIENNE BATTLE.</div> <div>21 Defendants.</div> <hr/> <div>22 DR. JAMES BAILEY,</div> <div>23 DR. PIPPA MERIWETHER,</div> <div>24 and DR. DAMON CATHEY,</div> <div>25 Plaintiffs,</div> <div>vs.</div> <div>THE METROPOLITAN</div> <div>GOVERNMENT OF NASHVILLE</div> <div>AND DAVIDSON COUNTY,</div> <div>TENNESSEE and DR.</div> <div>ADRIENNE BATTLE.</div> <div>Defendants.</div> <hr/> <div>Elite-Brentwood Reporting Services</div> <div>www.elitereportingservices.com</div>	<div>Page 3</div> <div>1 A P P E A R A N C E S</div> <div>2</div> <div>3</div> <div>4 For the Plaintiffs, Bailey, Leffler,</div> <div>5 Meriwether and Jane Doe:</div> <div>6 MS. ANN B. STEINER</div> <div>7 Attorney at Law</div> <div>8 Steiner & Steiner</div> <div>9 613 Woodland Street</div> <div>10 Nashville, TN 37206</div> <div>11 (615)244-5063</div> <div>12 asteiner@steinerandsteiner.com</div> <div>13</div> <div>14 For the Plaintiff, Cathey:</div> <div>15 MS. JESSE FORD HARBISON</div> <div>16 Attorney at Law</div> <div>17 JESSIE HARBISON LAW, PLLC</div> <div>18 P.O. Box 68251</div> <div>19 Nashville, TN 37206</div> <div>20 (615)415-3285</div> <div>21 jesse@jesseharbisonlaw.com</div> <div>22</div> <div>23 For the Defendants:</div> <div>24 MR. J. BROOKS FOX</div> <div>25 Attorney at Law</div> <div>Department of Law</div> <div>Metropolitan Courthouse, Suite 108</div> <div>P.O. Box 196300</div> <div>Nashville, TN 37219</div> <div>(615)862-6050</div> <div>brooks.fox@nashville.gov</div> <div>Also Present:</div> <div>MR. JAMES LEJEUNE, Videographer</div>
<div>Page 2</div> <div>1</div> <div>2</div> <div>3</div> <div>4</div> <div>5</div> <div>6</div> <div>7</div> <div>8 Video Deposition of:</div> <div>9 CHRIS HENSON</div> <div>10 Taken on behalf of Plaintiffs</div> <div>11 February 28, 2022</div> <div>12</div> <div>13 Commencing at 9:09 a.m. CST</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23 Elite-Brentwood Reporting Services</div> <div>24 www.elitereportingservices.com</div> <div>25 Jenny Checuga, LCR, RPR</div> <div>Post Office Box 292382</div> <div>Nashville, Tennessee 37229</div> <div>(615)595-0073</div>	<div>Page 4</div> <div>1 I N D E X</div> <div>2 Examination Page</div> <div>3 By Ms. Steiner 8</div> <div>4 Examination</div> <div>5 By Ms. Harbison 185</div> <div>6 Further Examination</div> <div>7 By Ms. Steiner 223</div> <div>8</div> <div>9 E X H I B I T S</div> <div>10 Page</div> <div>11 Exhibit No. 1 71</div> <div>12 Focused Investments</div> <div>13 FY2021-2022 Budget</div> <div>14 Presentation</div> <div>15 Plaintiff 000063</div> <div>16 Exhibit No. 2 75</div> <div>17 2/11/20 E-mail from</div> <div>18 Chris Henson</div> <div>19 Funding our Future</div> <div>20 FY2020-2021 Budget</div> <div>21 Presentation</div> <div>22 SchoolsEmails 0025587</div> <div>23 Exhibit No. 3 84</div> <div>24 FY2018-2019 Operating Budget</div> <div>25 Exhibit No. 4 85</div> <div>26 FY2020-2021 Operating Budget</div> <div>27 MG 000654</div> <div>28 Exhibit No. 5 85</div> <div>29 FY2020-2021 Operating Budget</div> <div>30 Final June 30, 2020</div> <div>31 Mg 000694</div> <div>32 Exhibit No. 6 91</div> <div>33 1/15/16 Non-Renewal Letter</div> <div>34 McGruder 000064</div> <div>35</div>

<p style="text-align: right;">Page 5</p> <p>1</p> <p>2 Exhibit No. 7, for identification Page Excel Vacancies Sheet 116</p> <p>3</p> <p>4 Exhibit No. 8 141 5/26/2020 Board Meeting Agenda MG 000167</p> <p>6 Exhibit No. 9 141 8/11/20 Board Meeting Agenda Plaintiff 000001</p> <p>8</p> <p>9 Exhibit No. 10 193 Pages from FY 2022 Operating Budget Book</p> <p>10</p> <p>11 Exhibit No. 11 198 4/2/20 E-mail from Chris Henson to Dr. Battle</p> <p>12</p> <p>13 Exhibit No. 12 204 4/22/20 Letter From Chris Henson with Native Attachment SchoolsEmails 0025346</p> <p>14</p> <p>15 Exhibit No. 13 226 5/4/20 Bailey Termination Letter</p> <p>16</p> <p>17 Exhibit No. 14 231 5/4/20 Leffler Termination Letter</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 7</p> <p>1 * * *</p> <p>2 THE VIDEOGRAPHER: We are now on the</p> <p>3 record. Today is Monday, the 28th of February,</p> <p>4 2022, and the time indicated on the video</p> <p>5 screen is 9:09 a.m. This is the video</p> <p>6 deposition of Chris Henson in the matter of</p> <p>7 Jane Doe, et al. versus the Metropolitan</p> <p>8 Government of Nashville, et al., Case Number</p> <p>9 3:20-CV-01023, filed in the United States</p> <p>10 District Court for Tennessee for the Middle</p> <p>11 District, Nashville division.</p> <p>12 The deposition is being held today at</p> <p>13 Metro Legal Washington Square building located</p> <p>14 at 222 Second Avenue North in Nashville,</p> <p>15 Tennessee. My name is James LeJeune, the</p> <p>16 videographer. The court reporter is Jenny</p> <p>17 Checuga. Both in association with</p> <p>18 Elite-Brentwood Reporting Services.</p> <p>19 Will the counsel please introduce</p> <p>20 yourselves and state whom you represent.</p> <p>21 MS. STEINER: My name is Ann Steiner,</p> <p>22 and I represent James Bailey, Pippa</p> <p>23 Meriweather, Jane Doe and Lilly Lefler.</p> <p>24 MS. HARBISON: My name is Jesse</p> <p>25 Harbison, and I represent Dr. Damon Cathey.</p>
<p style="text-align: right;">Page 6</p> <p>1 S T I P U L A T I O N S</p> <p>2</p> <p>3</p> <p>4 The video deposition of CHRISTOPHER</p> <p>5 HENSON was taken by counsel for the Plaintiffs,</p> <p>6 at the offices of Metro Legal Department, 222</p> <p>7 Second Avenue N., Suite 600, Tennessee, on</p> <p>8 February 28, 2022, by Notice for all purposes</p> <p>9 under the Federal Rules of Civil Procedure.</p> <p>10 All formalities as to caption, notice,</p> <p>11 statement of appearance, et cetera, are waived.</p> <p>12 All objections, except as to the form of the</p> <p>13 questions, are reserved to the hearing, and</p> <p>14 that said deposition may be read and used in</p> <p>15 evidence in said cause of action in any trial</p> <p>16 thereon or any proceeding herein.</p> <p>17 It is agreed that JENNIFER CHECUGA, LCR,</p> <p>18 RPR, and Court Reporter for the State of</p> <p>19 Tennessee, may swear the witness, and that the</p> <p>20 reading and signing of the completed deposition</p> <p>21 by the witness were not discussed.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 8</p> <p>1 MR. FOX: My name is Brook Fox, and I</p> <p>2 represent the Defendants.</p> <p>3 THE VIDEOGRAPHER: Will Ms. Checuga</p> <p>4 please swear in the witness.</p> <p>5</p> <p>6 * * *</p> <p>7 CHRISTOPHER HENSON,</p> <p>8 was called as a witness, and having first been</p> <p>9 duly sworn, testified as follows:</p> <p>10</p> <p>11 EXAMINATION</p> <p>12 QUESTIONS BY MS. STEINER:</p> <p>13 Q. Could you state your full name for the</p> <p>14 record?</p> <p>15 A. Christopher Mason Henson.</p> <p>16 Q. And, Mr. Henson, I believe that -- how</p> <p>17 many times have you had your deposition taken</p> <p>18 in a matter related to Metro Schools?</p> <p>19 A. I'm not sure of the exact number, six or</p> <p>20 seven.</p> <p>21 Q. Okay. Now, I know one of those would</p> <p>22 have been the Crawford case, correct?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. One would have been Dr. Garcia's</p> <p>25 case, correct?</p>

1 **A. Correct.**
 2 Q. And one would have been this case?
 3 **A. Correct.**
 4 Q. Did you testify in Lily Leffler?
 5 **A. Yes.**
 6 Q. In a deposition?
 7 **A. No.**
 8 Q. Okay. What were the other three cases or
 9 four cases?
 10 **A. I can't remember.**
 11 Q. Did you testify in Lily Leffler?
 12 **A. Yes.**
 13 Q. Did any of the other depositions deal
 14 with cases where there was a claim of
 15 discrimination or retaliation?
 16 **A. I don't think so, but I can't remember**
 17 **what they were.**
 18 Q. Okay. Now, Lily Leffler, that was the
 19 most recent testimony, correct?
 20 **A. Correct.**
 21 Q. And you testified in that just a couple
 22 months ago?
 23 **A. Correct.**
 24 Q. Okay, and that was a
 25 discrimination/retaliation case?

1 **A. Yes.**
 2 Q. And the jury found that Metro had
 3 discriminated and retaliated against Dr. Lily
 4 Leffler?
 5 MR. FOX: Objection.
 6 BY MS. STEINER:
 7 Q. Or was it retaliated; do you know?
 8 MR. FOX: Objection to form.
 9 **THE WITNESS: I don't. I don't know**
 10 **what the exact ruling was.**
 11 BY MS. STEINER:
 12 Q. Did you know that the ruling went against
 13 Metro Schools?
 14 **A. Yes.**
 15 Q. Okay. And I want to ask you about the
 16 Plaintiffs here today.
 17 Do you know Dr. Pippa Meriweather?
 18 **A. Yes.**
 19 Q. And how many years did you deal with her?
 20 **A. Did I deal with her?**
 21 Q. Did you work with her.
 22 **A. Probably over 15 years.**
 23 Q. Okay. And did you form an opinion about
 24 what type of an employee she was?
 25 **A. Not necessarily. She didn't report to me**

1 **or anything like that.**
 2 Q. Okay. Had you ever heard anything
 3 negative about her job performance from anyone?
 4 **A. No.**
 5 Q. Okay. And did you think that the job
 6 that you saw her doing, that she did it
 7 competently?
 8 **A. Well, she didn't report to me, but I -- I**
 9 **didn't see anything that would suggest**
 10 **otherwise.**
 11 Q. Did you think she was honest?
 12 **A. As far as I knew, yes.**
 13 Q. Did you know James Bailey? And you may
 14 not have, but he was the principal at Whites
 15 Creek High School.
 16 **A. I did.**
 17 Q. Okay. And did you form an opinion about
 18 the way he was able to do his job as principal
 19 of Whites Creek?
 20 **A. No.**
 21 Q. Okay. Did you know he was voted
 22 Principal of the Year in 2019/2020?
 23 **A. I don't know if I knew that or not.**
 24 Q. Okay. Did you -- did you know that
 25 there's an agency that would go in and look at

1 the principals and say, this one's principal of
 2 the year? Did you know that, an outside
 3 agency?
 4 **A. I didn't -- wasn't aware of an outside**
 5 **agency.**
 6 Q. Okay. Did you hear anything bad about
 7 Dr. Bailey's job performance in the year --
 8 well, at all the whole time he was there?
 9 **A. Not that I can remember.**
 10 Q. Okay. And did you know Lily Leffler?
 11 **A. I did, yes.**
 12 Q. Okay. And how well did you know
 13 Ms. Leffler?
 14 **A. Just based on the fact that she was at**
 15 **the district office is how I knew her.**
 16 Q. And you're at the district office, too,
 17 correct?
 18 **A. Correct.**
 19 Q. Is that central office?
 20 **A. Correct.**
 21 Q. Okay. And did Ms. Leffler, to -- to your
 22 knowledge, perform her job duties competently?
 23 **A. As far as I knew, yes.**
 24 Q. Did she seem to be honest?
 25 **A. As -- as far as I knew, yes.**

1 Q. And same thing with Dr. Bailey, did he
2 appear to be honest to you?
3 **A. I wouldn't know otherwise, yes.**
4 Q. Okay. Now, Jane Doe is the name that
5 we've used in this case, but that's Jenai
6 Hayes; did you know that?
7 **A. Yes.**
8 Q. Okay. And when -- in the '19 --
9 2019-2020 school year, she was the director of
10 school choice; did you know that?
11 **A. Yes.**
12 Q. Okay. And did you know -- did you have
13 any direct dealings with Ms. Hayes?
14 **A. Not really any direct dealings, no.**
15 Q. Okay. Did you hear any negative comments
16 about her job performance?
17 **A. No.**
18 Q. Okay. Did you believe Ms. Leffler was --
19 was honest?
20 **A. As far as I knew, yes.**
21 Q. Did you know -- for these four Plaintiffs
22 that I represent, did you know, in the years
23 leading into and also in 2019-2020, that they
24 had engaged in various protected activities?
25 **A. Various protected activities?**

1 Q. Uh-huh.
2 **A. I don't know --**
3 MR. FOX: Objection to form.
4 **THE WITNESS: -- what that means.**
5 BY MS. STEINER:
6 Q. Okay. Did you know that if someone makes
7 a complaint of discrimination, that they cannot
8 be retaliated against?
9 **A. Yes.**
10 MR. FOX: Objection to form.
11 BY MS. STEINER:
12 Q. Did you know that if someone exercises
13 their First Amendment rights to testify in
14 court or in an administrative hearing that
15 something occurred, that they cannot be
16 retaliated against for that testimony?
17 **A. Yes.**
18 Q. Did you know that if someone is
19 associated, and it's called associational
20 retaliation, to someone who has filed a charge
21 of discrimination or sued for discrimination,
22 that they cannot be retaliated against?
23 **A. Yes.**
24 Q. Okay. Did you know that if someone
25 exercises their rights under Title VI to

1 complain of a violation of Title VI, what they
2 believe's a violation of Title VI in the school
3 systems, that they cannot be retaliated
4 against?
5 **A. Yes.**
6 Q. Okay. Did you know that in -- did you
7 know in the spring of 2020, that -- I'm going
8 to call her Jane Doe, but I mean Jenai Hayes.
9 And if at any point you're not sure who I'm
10 talking about, just say, who's Jane Doe, and
11 I'll say Jenai Hayes.
12 Did you know that in the year 2020, that
13 Jenai Hayes was the person who complained, the
14 teacher who complained of the lesson that was
15 taught at Waverly Belmont called Let's Make a
16 Slave?
17 **A. I became aware of that, yes.**
18 Q. Okay. And did you know of that before
19 her position was eliminated?
20 **A. I don't remember the timing of when I**
21 **found out and when her position was eliminated.**
22 Q. Was it in the spring of 2020?
23 **A. I don't know.**
24 Q. Did you -- when -- when -- does -- does
25 Metro Schools keep track of the times that

1 something that's affecting Metro Schools makes
2 the press or the news?
3 **A. If so, our -- it would be our**
4 **communications department, but I don't know**
5 **what all they do.**
6 Q. And who runs the communication
7 department?
8 **A. Currently, Sean Braisted.**
9 Q. Okay. And do you recall in the -- I
10 believe it was January of 2020, when Metro
11 Schools made both local news and I believe
12 national news, too, based on this Let's Make a
13 Slave lesson that was taught at Waverly
14 Belmont? Did you know that?
15 **A. I didn't know those dates. I didn't know**
16 **the time period.**
17 Q. Did you hear about that? Did you turn on
18 the news? Did you hear it on the news? Did
19 you read about it in the papers?
20 **A. Probably both, probably on the news and**
21 **in the -- the media.**
22 Q. Okay. Did you think that it reflected
23 poorly on Metro Schools?
24 **A. It was not a positive story, yes.**
25 Q. Okay. Did you have discussions with

1 anyone at Metro Schools in the central office,
 2 such as Dr. Battle or anyone else, about the
 3 effect that story had on the perception of
 4 Metro Schools?
 5 **A. No.**
 6 Q. Did you have any discussions with anyone
 7 about any of those stories?
 8 **A. No.**
 9 Q. Okay. But you did find out sometime that
 10 that was Jenai Hayes who had complained?
 11 **A. Yes.**
 12 Q. Did you know her son was in that class?
 13 **A. I found out that he was, yes.**
 14 Q. And who told you?
 15 **A. I think it was in the media.**
 16 Q. That -- the name of her son?
 17 **A. Not the name of her son, but that it was**
 18 **-- or her son was in that class.**
 19 Q. Did -- do you know how you found out that
 20 Jenai Hayes or Jane Doe was the one who
 21 complained?
 22 **A. I believe it was just in the -- either**
 23 **the news media or print media.**
 24 Q. Okay. So then, if the print media was in
 25 January of 2020, you would have found out

1 sometime in January of 2020?
 2 MR. FOX: Objection to form.
 3 **THE WITNESS: I assume so. I**
 4 **don't -- I don't remember exactly when I found**
 5 **out.**
 6 BY MS. STEINER:
 7 Q. Okay. Now, for Lily Leffler, did you
 8 know that she was kin to Dr. Garcia?
 9 **A. I found out that she was, yes.**
 10 Q. Okay. And you probably knew about that
 11 back in 2018, 2017, when the Garcia case was
 12 pending, correct?
 13 **A. Not sure if I found out in relation to**
 14 **that case or another time.**
 15 Q. But is it true that you knew about that
 16 relationship for years?
 17 **A. For years?**
 18 Q. Yes.
 19 **A. I would assume so, yes.**
 20 Q. Okay. And it was common knowledge at
 21 Metro Schools that Dr. Leffler was kin to Jenai
 22 Hayes -- to Vanessa Garcia, correct?
 23 **A. I don't know about common knowledge, but**
 24 **I assume others knew if I knew.**
 25 Q. Okay. Now, for -- do you recall back --

1 do you recall a fight that took place at Whites
 2 Creek High School where Dr. Battle's brother,
 3 who was the coach, beat up a parent?
 4 **A. Didn't remember the coach beating up a**
 5 **parent, but I knew that there was some kind of**
 6 **altercation after -- I think maybe after a game**
 7 **was over.**
 8 Q. And did you know that Coach Battle's
 9 brother was involved with it?
 10 **A. Coach Battle?**
 11 MR. FOX: Objection -- objection to
 12 form.
 13 BY MS. STEINER:
 14 Q. Coach -- did you know that Adrienne
 15 Battle's brother was the coach who was involved
 16 with the fight?
 17 **A. I found out, yes, that he was her**
 18 **brother.**
 19 Q. And how did you find that out?
 20 **A. I think, again, it was in the media.**
 21 Q. Okay. And so then, during the time
 22 period that the fight broke out and was
 23 reported in the media, you knew that it
 24 concerned Adrienne Battle's brother, correct?
 25 **A. I don't know if I knew it at that point**

1 **in time, but I -- I did find out that, yes,**
 2 **they were brother and sister.**
 3 Q. Did you know that James Bailey was the
 4 principal of Whites Creek High School?
 5 **A. Yes.**
 6 Q. Did you know that there was also an issue
 7 that arose several months after the fight with
 8 regard to the misuse or mishandling of funds by
 9 Coach Bailey -- no, by Coach Battle?
 10 **A. I don't know that I was -- I don't know**
 11 **that I was aware of that.**
 12 Q. Have you ever been made aware of the
 13 misuse of funds allegation against Coach
 14 Battle?
 15 **A. Not that I remember, but it could have**
 16 **happened, I just don't remember.**
 17 Q. As you sit here today, is -- are my
 18 questions to you about the mishandling of the
 19 funds by Coach Battle the first time that
 20 you've been made aware of that?
 21 **A. No, it seems like there was something**
 22 **that -- that happened, I just don't remember**
 23 **when or what happened.**
 24 Q. Okay. Did you have any discussions with
 25 Adrienne Battle about her brother and either

1 the fight, the allegation of the
2 misuse/mishandling of funds, or the
3 disciplinary action taken against him?

4 **A. No.**

5 Q. Okay. Did you know that Coach Battle's
6 contract was non-renewed, I believe at the end
7 of the year?

8 **A. I knew that he no longer was coach at**
9 **Whites Creek. I didn't know what had taken**
10 **place.**

11 Q. If you non-renew a contract, is it
12 possible to note on there that the person is
13 not eligible for rehire?

14 **A. I'm aware that sometimes that is the**
15 **practice of human resources, yes.**

16 Q. Okay. And sometimes someone can be
17 non-renewed and that's not put on there,
18 correct?

19 **A. As far as I know, yes.**

20 Q. Okay. Did you know that Coach Battle was
21 evidently put on his that he was not eligible
22 for rehire?

23 **A. I was not aware, no.**

24 Q. Okay. Did you know that a School Board
25 member contacted Chris Barnes to discuss with

1 him after Coach -- after James Bailey had lost
2 his job as principal, did you know that Chris
3 Barnes was contacted by a board member to see
4 whether or not they could remove the "not
5 eligible for rehire" for Coach Battle?

6 **A. No.**

7 Q. If you have a charter school, are the
8 charter schools, the hiring decisions there
9 made separate from Metro Schools or are they
10 connected?

11 **A. They're made separate.**

12 Q. Okay. And who makes those decisions for
13 the charter schools?

14 **A. As far as I know, it would be the -- the**
15 **leader of the school.**

16 Q. And does it have to be approved by Metro
17 Schools?

18 **A. No.**

19 Q. Is there a connection between the Metro
20 Charter Schools and the Metro Schools, central
21 office?

22 **A. Connection, what kind of --**

23 Q. Meaning do you use, like, the same HR,
24 the same services?

25 **A. Some charter schools do utilize some of**

1 **our human resources functions, employee**
2 **benefits, et cetera, but others do not. It's**
3 **up to the charter school whether or not they**
4 **want to do that.**

5 Q. Okay. Did you know that Coach Battle has
6 since been rehired by one of the charter
7 schools?

8 **A. No, I was not aware.**

9 Q. Okay. Did you know that James Bailey had
10 testified in an administrative hearing dealing
11 with the termination of Coach Battle?

12 **A. No.**

13 Q. Did you know that that type of an
14 activity's protected?

15 **A. No.**

16 MR. FOX: Objection to form.

17 **THE WITNESS: I was not involved in**
18 **that, so I wouldn't know.**

19 BY MS. STEINER:

20 Q. Did you know that Dr. Battle had stated
21 to some of the officials at Metro Schools that
22 she wasn't going to let anyone punk her
23 brother?

24 **A. No.**

25 Q. Do you know what that means, "punk her

1 brother"?

2 **A. Not necessarily.**

3 Q. What do you believe it means?

4 **A. I guess some kind of negative action**
5 **toward him.**

6 Q. Now, I want to ask you about just being
7 honest.

8 What's your current position?

9 **A. Chief financial officer.**

10 Q. Is it unusual for a board member to
11 contact Metro central office about changing the
12 designation of a non-renewal from "not eligible
13 for rehire" to "eligible for rehire"?

14 MR. FOX: Objection to the form.

15 **THE WITNESS: It -- it should be**
16 **unusual. I don't know that it is, but I would**
17 **say so, yes, but it -- I'm sure -- I'm sure**
18 **something like that has happened before.**

19 BY MS. STEINER:

20 Q. Do you think that's ethical?

21 **A. I wouldn't call -- I wouldn't term it**
22 **ethical. I think it's just not the best way to**
23 **do business.**

24 Q. If you knew that a board member had
25 contacted Chris Barnes about changing the

1 designation so that Coach Battle could be hired
 2 back at Metro Schools, would you have started
 3 some sort of investigation to find out why this
 4 occurred, what happened with this?
 5 **A. I would not have.**
 6 Q. Would you have reported it to central
 7 office or human resources?
 8 **A. Well, I -- I would assume human resources**
 9 **would already know if the School Board member**
 10 **was contacting human resources.**
 11 Q. Do you think Chris Barnes should have
 12 started some sort of an investigation to find
 13 out why he was being contacted by a School
 14 Board member?
 15 **A. No, I assume Chris Barnes would let**
 16 **Dr. Battle know, because Dr. Battle reports to**
 17 **the School Board.**
 18 Q. Now, do you not see how Dr. Battle may
 19 have an interest in that fight?
 20 **A. I see there's a family connection, yes.**
 21 Q. Do you think Dr. Battle would have to
 22 recuse herself from any issues with regard to
 23 why Chris Barnes was being contacted by a
 24 School Board member?
 25 MR. FOX: Objection, calls for a

1 legal analysis.
 2 **THE WITNESS: I would assume Metro**
 3 **Legal would have been contacted to find out**
 4 **what the best course of action would be.**
 5 BY MS. STEINER:
 6 Q. And who would have contacted Metro Legal;
 7 who would have had that responsibility?
 8 **A. Either Chris Barnes or Dr. Battle.**
 9 Q. Do you know whether or not that occurred?
 10 **A. I don't.**
 11 Q. Okay. Now, what's your current job
 12 title?
 13 **A. Chief financial officer.**
 14 Q. And as chief financial officer, who was
 15 responsible for submitting the budgets to the
 16 School Board for approval?
 17 **A. Dr. Battle.**
 18 Q. And what is your responsibility with
 19 regard to the school budget?
 20 **A. Developing the budget, putting the**
 21 **documents together based upon the decisions**
 22 **that have been made regarding what's to be**
 23 **proposed.**
 24 Q. Okay. So then, who makes the decision
 25 about -- the decisions -- when you say the

1 decisions that have been proposed, does that
 2 mean any changes to the budget?
 3 **A. Yes.**
 4 Q. Okay. And does that include elimination
 5 or transfers of the workers?
 6 **A. Yes. It's relating to positions, is part**
 7 **of it.**
 8 Q. And do you have discussions with
 9 Dr. Battle about -- who has the discussions,
 10 besides -- and correct me if I'm wrong, I think
 11 what you're telling me is you will have
 12 discussions with Dr. Battle about positions to
 13 be eliminated or employees to be transferred
 14 with regard to the budget, correct?
 15 **A. Yeah, it would be a group discussion with**
 16 **the cabinet, Dr. Battle's cabinet. And then**
 17 **ultimately, she would make the decision, and**
 18 **then my team would put the documents together**
 19 **based upon those decisions.**
 20 Q. And do you meet with the cabinet?
 21 **A. I'm a part of the cabinet, yes.**
 22 Q. Okay. Who else is in the cabinet?
 23 **A. It would be all of the chiefs, plus there**
 24 **are some other -- other individuals that are**
 25 **part of it.**

1 Q. Who were the chiefs? In 2020, who were
 2 the chiefs?
 3 **A. I was one, am one. Dr. Barnes would be**
 4 **one. Hank Clay, Chief of Staff. Michelle**
 5 **Springer, Chief of Human Resources. And I'm**
 6 **trying to think at that time who else was**
 7 **there.**
 8 **I think David Williams, Dr. David**
 9 **Williams probably would have been over**
 10 **academics at that time on an interim basis.**
 11 Q. And is this the group that met to
 12 determine what would be the changes to the
 13 budget in 2020?
 14 **A. There were a series of meetings, yes.**
 15 Q. Okay. Now, I want to ask you about
 16 Michelle Springer. Are you positive she was
 17 chief of human resources then or --
 18 **A. She's not chief of human resources.**
 19 Q. Oh.
 20 **A. Chief of student services, I believe.**
 21 Q. And was she -- are you sure she was chief
 22 of human services back then?
 23 **A. Now that I'm thinking about it, at the**
 24 **timing, spring of 2020, I can't remember.**
 25 Q. Was she an associate superintendent then?

1 **A. Yes.**

2 Q. Okay. And then she got promoted to be
3 the chief of -- what is it, services?

4 **A. Student support services, I believe is
5 her title.**

6 Q. Okay. Is that right?

7 **A. I believe so.**

8 Q. Okay, and that was a promotion to that
9 position?

10 **A. That would have been a promotion, yes.**

11 Q. Okay. Do you know if it came with an
12 increase in salary?

13 **A. Yes, it would have.**

14 Q. Okay. And do you know if it was a
15 substantial increase, close to 50,000?

16 **A. Don't know what she was making in her
17 previous position.**

18 Q. Okay. But that was a promotion in both
19 terms of salary and job duties, correct?

20 **A. Correct.**

21 Q. Okay. Now, in the meetings that you had,
22 and I'm not going to hold you to this, but how
23 many meetings would you have had in the spring
24 of 2020 that dealt with the budget and what to
25 do?

1 **A. I don't know, because after the tornado
2 and after the pandemic began, we went virtual.
3 And so, I don't -- there were other meetings
4 that -- that were held that weren't necessarily
5 budget meetings where I would find out, this is
6 what we're going to do after the fact.**

7 **And so, I don't know how many meetings --
8 how many budget meetings we had. It was just a
9 totally different way of working since we were
10 all remote.**

11 Q. Were the virtual meetings recorded?

12 **A. Not that I know of.**

13 Q. And in these meetings, this is where
14 the -- Dr. Battle and all the chiefs would
15 discuss what to do with regard to the budget,
16 correct?

17 **A. Yes. They would be meetings regarding
18 what the budget proposal would be. And things,
19 of course, kept changing with the pandemic,
20 if -- we received some guidance from the
21 mayor's office and Metro finance department
22 regarding budget reductions, and that all
23 started to come into play, as well.**

24 Q. How did you receive the guidance from
25 Metro Government; was it by e-mail; was it

1 by -- did they show up at the meeting? Or how
2 was that -- how did that happen?

3 **A. No, it -- it was -- I don't remember if
4 it was e-mailed or if it was -- we were doing a
5 lot by telephone, if it was by telephone. I
6 just don't remember.**

7 Q. And what did the mayor's -- that -- what
8 was the date of the tornado; do you remember?
9 If you don't, I can tell you. I think it
10 was March 12th, 2020.

11 **A. I think it was actually earlier than
12 that.**

13 Q. Was it?

14 **A. March -- well, I mean -- it was early
15 March.**

16 Q. Okay.

17 **A. Because I know we had the tornado, we
18 were out of school for the tornado. We came
19 back to school for a short amount of time, and
20 then all schools were shut down.**

21 Q. Okay. And before the tornado struck,
22 was -- were you proceeding as if the budget
23 discussions would be normal discussions about
24 the budget, as usual?

25 **A. Yes.**

1 Q. Okay. And so then, any proposed budget
2 that you would have done before early March
3 would have reflected what you wanted,
4 considering it's going to be just a normal
5 year, correct?

6 **A. Yeah, but we would not have had budget
7 documents actually put together at that time.
8 We would have had -- still be having
9 discussions.**

10 Q. Okay. Let me show you this.

11 Okay. Mr. Henson, can you see this
12 document that I've pulled up that says Document
13 Number 1, Draft January 27, 2020?

14 **A. Uh-huh.**

15 Q. Summary of changes to fiscal year 2020
16 through 2021, operating budget?

17 **A. Yes.**

18 Q. Okay. Do you recognize this document?

19 **A. Not necessarily, but I think I know what
20 it is, yes.**

21 Q. Okay. And is this something that your
22 department regularly would draft in January of
23 a budget -- each January, because the budget's
24 approved once a year, correct?

25 **A. Correct.**

1 Q. Okay. And does this document show that
2 -- what you're actually looking for with regard
3 to additions, does this show that the prior
4 budget's 922 million?

5 **A. Yes.**

6 Q. Okay. And does it show that you're
7 requesting about 30,000 to get it up to 951?

8 MR. FOX: Objection to the form.

9 **THE WITNESS: This would not be a**
10 **budget proposal. This early in the process**
11 **would be where we are looking at what increases**
12 **are we already aware that we would have to have**
13 **in increased funding to be able to offer the**
14 **same level of service in the next year.**

15 **And so, these are what we typically**
16 **recall -- typically call our inflationary and**
17 **other required costs, our -- and we've since**
18 **started calling it our continuity of operations**
19 **budget.**

20 **So the -- this would have been an**
21 **early attempt to look at what those additional**
22 **costs would be, but it wouldn't reflect any**
23 **other changes that early in the process.**

24 BY MS. STEINER:

25 Q. Okay. Now, is there any document that

1 you know of that reflects the other changes
2 that you thought were necessary to the budget?

3 **A. The final document for sure.**

4 Q. Okay. So does the final document have
5 anything in there that's not listed on this
6 document?

7 **A. It would, yes. It would have --**

8 Q. What --

9 **A. -- other changes further down on the**
10 **page. This says total operating budget for**
11 **baseline and then proposed changes underneath**
12 **that that's blank, there would be other**
13 **changes.**

14 Q. Okay. For the required additions, do you
15 know whether or not -- and the employee
16 compensation, do you know whether or not these
17 amounts were the same in the final budget?

18 **A. I would have to look at the final budget.**
19 **These amounts that are in parentheses just**
20 **show, for instance, what a -- the cost of a**
21 **step increase would be on the salary schedule,**
22 **as well as what a 1 percent cost of living**
23 **adjustment would be for each of the two groups**
24 **of employees, it would just be there for**
25 **information at that point.**

1 Q. Okay. Let me ask you just a couple
2 questions before we go off and start talking
3 about the budgets, okay?

4 In the meetings that you had, did you try
5 to attend all the meetings that were called by
6 Dr. Battle to discuss the budget and changes to
7 the budget?

8 **A. Yes.**

9 Q. Okay. And do you know whether or not you
10 did attend all those meetings?

11 **A. I assume I did. I don't remember not --**
12 **not attending any.**

13 Q. In those meetings, were you there to
14 discuss what the changes were going to be and
15 why they were going to be made?

16 **A. Yes.**

17 Q. Okay. And was it one of your job duties
18 to be informed of that information?

19 **A. I should be informed, yes.**

20 Q. Okay.

21 **A. As I said, sometimes the discussions,**
22 **particularly regarding organizational chart, I**
23 **would find out afterward.**

24 Q. Okay. Now, in that discussion, did
25 anyone make any statement about why the

1 associate superintendent positions were being
2 eliminated?

3 **A. I'm sure there was. I don't remember**
4 **what it was, but I'm sure there was a**
5 **discussion regarding why the change was**
6 **necessary.**

7 Q. Now, are you aware of sometimes -- and
8 I -- I don't know what the document's called,
9 but if there's going to be a change in
10 structure, Metro Government, whether it be
11 central office or some other part of Metro
12 Schools, would go in and develop a document to
13 justify why the change needs to be made?

14 **A. Metro Government would do that?**

15 Q. No, excuse me, Metro Schools?

16 **A. We would try to indicate that in our**
17 **budget documents regarding, you know, what the**
18 **different changes are, but it would usually be**
19 **strictly budget related, not necessarily**
20 **philosophical.**

21 Q. Okay. Are you aware of any -- if -- for
22 instance, if you eliminate a position,
23 typically you have paperwork to go along with
24 why it was eliminated, correct?

25 **A. Typically, you would through human**

1 **resources and then should be reflected in the**
 2 **budget, yes.**
 3 Q. And are you aware of any documentation --
 4 because we've been provided with almost 98,000
 5 documents in this case. And we've gone through
 6 them, both of us have, and we can't find
 7 anything that discusses why the associate
 8 superintendent positions were eliminated. Are
 9 you aware of any document?
 10 **A. I'm not aware of a document, and I wasn't**
 11 **really involved in those discussions.**
 12 Q. Now, did anyone ever tell you why school
 13 choice -- director of school choice was being
 14 eliminated?
 15 **A. No.**
 16 Q. Did anyone tell you why the executive
 17 directors' positions were being eliminated?
 18 **A. I don't think the executive director**
 19 **positions were eliminated, I think they were**
 20 **changed. But no, I was not told why.**
 21 Q. Do you -- were -- with regard to the
 22 positions that were eliminated in the budget --
 23 well, let me ask you this: Were you aware that
 24 Dr. Bailey lost his job as principal of Whites
 25 Creek?

1 **A. Not until much after the fact.**
 2 Q. Do you know why?
 3 **A. Do I know why?**
 4 Q. He lost his job as principal of Whites
 5 Creek?
 6 **A. No.**
 7 Q. Okay. Now, with regard to -- and we're
 8 going to talk about this in more detail later,
 9 I just want to ask you just in general. Were
 10 you aware that there were five jobs, I believe,
 11 that were eliminated in the budget in central
 12 office on the -- this first page of the final
 13 budget, for a savings of 1 million?
 14 **A. I would have to review that budget.**
 15 Q. Okay. Let's look at that real quick, and
 16 then we're going to compare it to the...
 17 Can you see it?
 18 **A. Uh-huh.**
 19 Q. Did it pop up?
 20 **A. The cover page, yes.**
 21 Q. Good, good. I didn't think it would.
 22 And this is the June 30th, 2020, fiscal
 23 year operating budget that was adopted by the
 24 School Board, correct?
 25 **A. Correct.**

1 Q. And adopted by Metro Council, correct?
 2 **A. It was based on what Metro Council**
 3 **approved.**
 4 Q. Okay.
 5 **A. Yes.**
 6 Q. Now, if you go to Document Number 1,
 7 which is the second page of the budget, do you
 8 see down here where it says, "Central office
 9 reorganization, five jobs at savings of a
 10 million"?
 11 **A. Yes.**
 12 Q. Okay. Did you make the decision to
 13 eliminate those five jobs or were you told to
 14 eliminate those five jobs?
 15 **A. I didn't make the decision to eliminate**
 16 **those five jobs. I was told after the decision**
 17 **had been made what the net result would be.**
 18 Q. Okay. And did you have any ability to
 19 alter that to say, let's don't eliminate those
 20 jobs, let's eliminate cost here or some other
 21 place?
 22 **A. No. That wouldn't be my decision.**
 23 Q. Okay. Who told you to eliminate those
 24 jobs?
 25 **A. I believe it was through the discussions**

1 **when I was notified of the reorganization and**
 2 **what -- how many positions net would be**
 3 **reduced.**
 4 Q. Who told you that?
 5 **A. I believe Hank Clay told me that.**
 6 Q. Did he tell you why?
 7 **A. No, I think he -- it was through a phone**
 8 **call, and I think he just told me what the**
 9 **different changes were -- were.**
 10 Q. Now, would you agree that with a budget
 11 of -- the actual budget ended up being, looks
 12 like, 933 million; do you see that?
 13 **A. Yes.**
 14 Q. Okay. Would you agree that a savings of
 15 1 million equates to approximately 1 percent of
 16 1 percent?
 17 **A. Yes.**
 18 Q. Okay. And as the chief --
 19 **A. Financial officer.**
 20 Q. Chief financial officer, is it a fair
 21 statement that when you're dealing with a
 22 budget that large, that if someone asked you to
 23 find a million dollars in savings somewhere,
 24 you typically can find it?
 25 **A. We -- we would definitely look for it,**

1 **but I wasn't asked to do that.**

2 Q. Okay. Now, I believe several years ago,
3 you made -- it's always -- I think this may
4 have always been your position, that before you
5 actually go in and eliminate positions, you're
6 going to look at nonemployee-related
7 eliminations to see if you can cut in certain
8 areas, such as contracted services or some
9 other area, before you actually start affecting
10 people; is that true?

11 **A. Correct. Typically, we would look at**
12 **non-personnel expenses. Of course, this was**
13 **Dr. Battle's first budget, and so this**
14 **reflected her reorganization.**

15 Q. Did anyone ask you to look at
16 non-personnel-related reductions?

17 **A. Yes.**

18 Q. And did they ask you to do that before
19 the decision was made to eliminate these five
20 jobs?

21 **A. I think it was in relation to what we**
22 **thought our final funding allocation was going**
23 **to be to try to -- to get to that number,**
24 **because we had to reduce by \$15.2 million from**
25 **our continuity of operations budget. So some**

1 **of it was personnel, some of it was**
2 **non-personnel.**

3 Q. Who asked you to look at the
4 non-personnel and -- to see what reductions you
5 could make?

6 **A. It probably would have been Dr. Battle**
7 **trying to make the budget balance with what our**
8 **funding allocation was going to be.**

9 Q. When did she ask you to do that?

10 **A. I don't know. It -- it would have been**
11 **throughout the process, the budget process.**

12 Q. Do you have any documentation from
13 Dr. Battle asking you to look at the
14 nonemployee cost?

15 **A. No, it was -- it was more general in the**
16 **fact that we just had to make -- make our**
17 **budget balance with the funding allocation that**
18 **we were receiving.**

19 Q. Did anyone come to you and say, we may
20 have to eliminate five jobs, do you have any
21 other items that you could eliminate before we
22 get to the five jobs?

23 **A. I don't remember that being said that**
24 **way, no.**

25 Q. Okay. Now, do you know why the executive

1 directors -- do you know what happened to the
2 executive directors' positions?

3 **A. Not really, I just was given basically**
4 **the net result.**

5 Q. Do you know whether or not the executive
6 directors were told they had to reapply for
7 their jobs?

8 **A. I don't know that I was aware of that.**

9 Q. Did you know that they had to go in for
10 interviews that were anonymously calculated?

11 **A. No.**

12 Q. Have you ever heard of, at Metro Schools,
13 the employees having to go into interviews that
14 are anonymous?

15 **A. I don't know what that --**

16 MR. FOX: Objection to form.

17 **THE WITNESS: I don't know what**
18 **"anonymous interviews" even means.**

19 BY MS. STEINER:

20 Q. Okay. Did you know that the executive
21 directors, people applying for those jobs, had
22 to go in for interviews where the people
23 interviewing them would score them anonymously?

24 **A. I wasn't aware of that, no.**

25 Q. Have you ever known that to exist or

1 happen at Metro Schools before?

2 **A. I'm not in human resources, I don't know**
3 **what they've -- what they've done.**

4 Q. Now, you were actually the interim
5 director, weren't you?

6 **A. In 2015-16, yes.**

7 Q. Okay. In that time period, did you know
8 of any anonymous interviews that occurred where
9 the employees were scored and it was done
10 anonymously?

11 **A. I don't know.**

12 Q. Do you recall saying, I want this
13 position interviewed -- I want the candidates
14 to interview for this position and I want the
15 scoring to be anonymous?

16 **A. I have not said that, no.**

17 Q. Okay. Do you know why the executive
18 directors had to reapply for their jobs?

19 **A. I don't know why. I assume that was**
20 **Dr. Battle's decision.**

21 Q. Do you know why -- director of school
22 choice, why that position was eliminated?

23 **A. No.**

24 Q. Is that an important position?

25 **A. Yes.**

1 Q. My understanding is it's one of the --
2 the most important in terms of diversity,
3 maintaining diversity at the school.

4 MR. FOX: Objection to form.

5 BY MS. STEINER:

6 Q. Is that correct?

7 **A. Well, it's obviously relating to our**
8 **school choice process where families can make**
9 **application to choose to go to a school that's**
10 **not their zoned school.**

11 Q. Do you know who made the decision to
12 eliminate that position?

13 **A. No.**

14 Q. Okay. Now, besides accounting, do you
15 have a degree or did -- did you take courses in
16 statistics?

17 **A. As part of my accounting degree, a number**
18 **of years ago, yes.**

19 Q. Okay. And I wanted to ask you a question
20 about something. We're going to go back to
21 that.

22 When you said that you would find out
23 afterwards about changes to the organizational
24 structure, who told you that?

25 **A. In this case, I believe Hank Clay called**

1 **me and told me, you know, what the new**
2 **structure was going to be and who was going to**
3 **be in the positions.**

4 Q. And did he -- is there any sort of
5 written documentation of that, that you know
6 of?

7 **A. Not that I have, not that I know of.**

8 Q. When he told you who was going to be in
9 the positions, what did he tell you?

10 **A. I don't remember exactly. That we were**
11 **no longer going to have associate**
12 **superintendents, I know, was part of it.**

13 Q. Did he tell you that Michelle Springer
14 was going to be promoted to be the -- what was
15 her position -- what's her current position?

16 **A. Chief of student support services.**

17 Q. Yeah, did she -- he tell you that?

18 **A. I think -- I think he did, yes.**

19 Q. Okay. And did he also tell you that
20 Jenai Hayes was going to be transferred to a
21 teaching position?

22 **A. I -- I think that was part of the**
23 **discussion, I just don't remember all of the**
24 **details.**

25 Q. Okay. And --

1 MR. FOX: Ms. Steiner, are you going
2 to -- reminder that you -- I think you wanted
3 to use "Jane Doe" throughout the deposition.

4 MS. STEINER: Okay.

5 MR. FOX: Otherwise, it calls for a
6 lot of redaction later.

7 BY MS. STEINER:

8 Q. So then, when he -- when Hank Clay called
9 you and told you, we're going to eliminate
10 these five positions, the new budget, we want
11 them eliminated, he told you that Ms. Springer
12 was actually going to get this promotion,
13 correct?

14 **A. I believe it was the same --**

15 Q. Okay.

16 **A. -- conversation. There may have been**
17 **more -- more than one conversation.**

18 Q. And he also told you that Jane Doe's
19 position was being eliminated, as well?

20 **A. Yes, and it was in relation to the hiring**
21 **of a new position that would be over diversity,**
22 **equity, et cetera.**

23 Q. Okay, and did he tell you that Ashford
24 Hughes was the person who was going to get that
25 job?

1 **A. Yes.**

2 Q. Okay. Now, let's go back to the budget
3 quickly.

4 Did you discuss the executive directors
5 and who was going to actually remain as an
6 executive director and who wasn't?

7 **A. Not sure if I got that level of detail.**
8 **I may have, I just can't remember. And again,**
9 **I think it was more than one phone call.**

10 Q. Okay, but these phone calls all took
11 place in terms of what you're actually going to
12 put in the budget with regard to the
13 elimination of these five jobs, correct?

14 **A. Yeah, it was basically to let me know**
15 **what organizational changes were taking place**
16 **so that I could have the budget reflect that.**

17 Q. Okay. And if the budget reflects that in
18 the May 19th budget, then you knew these
19 discussions would have taken place before May
20 19?

21 **A. Yeah, I would assume so, yes.**

22 Q. Okay. Now, first I want to ask you
23 something about the -- this is the -- if you
24 could look at the June 30th, 2020, the
25 operating budget that was actually passed by

1 Metro. Do you see down at the very bottom
2 where it says, "Proposed changes includes
3 personnel and non-personnel cost"?

4 **A. Yes.**

5 Q. Okay. Almost every budget -- how -- how
6 long have you been chief financial officer, how
7 many years?

8 **A. This is my 20th year.**

9 Q. Okay. Almost every year you've been
10 there, you've always had items that are taken
11 out of the budget from one year to the next,
12 correct?

13 **A. I -- I would have to look, to be honest.
14 I don't know if every year we've had to make
15 any kind of reductions.**

16 Q. Almost every year?

17 **A. I would assume so, from -- from what the
18 initial ask was, yes.**

19 Q. Okay. Question's a little different, so
20 I don't think you quite -- do you see where it
21 says "proposed changes" and it's got the -- the
22 items that are coming out of the budget?

23 **A. Yes.**

24 Q. Every year, you do have items that do
25 come out of the budget, correct?

1 **A. Again, I -- I would want to review those
2 budgets to be sure every year there was
3 something that was a reduction. I just don't
4 remember.**

5 Q. Well, do you know if -- let's look at
6 Number -- that came out of -- I think these
7 numbers on the -- the right-hand -- left-hand
8 side are the function or the department
9 numbers, correct?

10 **A. Correct.**

11 Q. Okay. And how many employees are in
12 central office; do you know?

13 **A. I don't.**

14 Q. Do you know approximately?

15 **A. 200, 300.**

16 Q. Okay.

17 **A. I really don't. Human resources probably
18 would have that.**

19 Q. Where it says "IT operating's capital"
20 and it's got parentheses around the 820,000,
21 that means that that's coming out of the
22 budget; that's money you don't need that you
23 needed the prior year, correct?

24 **A. That one means that it's coming out of
25 the operating budget and we will fund those**

1 **items with our capital budget, which is a
2 separate budget.**

3 Q. Okay. And so, would that have occurred
4 regardless of any sort of budget issues with
5 the 2019-2020 through 2020-21 school year?

6 **A. No. If we weren't having to reduce our
7 budget, we would not have done that.**

8 Q. Okay. What about waste disposal, would
9 that have occurred anyways, 249,000?

10 **A. That one probably would have occurred,
11 yes.**

12 Q. Maintenance operating capital from
13 Function 6300, 1.5 million, would that have
14 occurred anyways?

15 **A. No. That was similar to the IT where
16 expenses that we typically could pay, would pay
17 out of the operating budget, we were going to
18 be paying out of the capital budget, which is a
19 separate budget, as we tried to make this
20 budget balance.**

21 Q. Okay. So it's not that you were losing
22 the -- you -- it's not like you were not going
23 to pay these items, you were just paying it out
24 of a different account, the capital account,
25 correct?

1 **A. Paying out of the capital account, which
2 means we couldn't do everything we were going
3 to do with the capital budget.**

4 Q. Okay. Now, school consolidations, do you
5 know if that was going to occur regardless?

6 **A. I don't know that that -- I don't think
7 that that would have occurred regardless. I
8 think that was accelerated by the -- the budget
9 reductions that had to be made.**

10 Q. Okay. When you say accelerated, were
11 there already talks in place about these school
12 consolidations?

13 **A. There were discussions about the fact
14 that we had some underutilized schools. Again,
15 I don't know that that would have been proposed
16 without having to reduce the budget like we had
17 to.**

18 Q. Okay. And do you see, "Various SBB,
19 exception hire savings"?

20 **A. Yes.**

21 Q. What is that?

22 **A. We have what's called student-based
23 budgeting where we have a student-based
24 budgeting formula that provides funding
25 allocations to schools for them to determine**

1 how to -- to budget that money.

2 And we had typically held back some
3 funding for what are called exception hires
4 where schools could make specific requests to
5 hire positions that would be over and above
6 what their funding allocation would be. And
7 so, we eliminated that exception hire amount so
8 that there were no exception hires allowed for
9 that particular year.

10 Q. Okay. And that's not filling unfilled
11 positions, that's just something -- an
12 exceptional hire in the schools, correct?

13 A. Correct, that would be funding that would
14 be available for schools to make a case for an
15 exception hire.

16 Q. Okay. And do you know whether or not --
17 how -- how often that actually occurs, that
18 there's an exception hire?

19 A. Prior to this year, it was -- it
20 happened. I don't know that it was common, but
21 we did have schools that -- that requested
22 exception hires.

23 Q. And -- so Metro Schools have set aside
24 about \$3 million?

25 A. We did, yes.

1 Q. Okay. And you decided, let's just don't
2 set that aside this year, correct?

3 A. Correct, schools would not be able to
4 request an exception hire.

5 Q. Okay. And if they don't request an
6 exception hire, that \$3 million is not --
7 doesn't get spent, correct?

8 A. In prior years when we had it --

9 Q. Yeah.

10 A. -- in there?

11 Correct, but typically they would.

12 Q. Okay. And then, do you see the central
13 office and district provided services reduction
14 of 5 million?

15 A. Yes.

16 Q. Do you know whether or not that would
17 have come out regardless?

18 A. No. That was where we were combing every
19 function and line item in the budget for any
20 potential reductions that we could come up with
21 so that we could balance the budget with what
22 Metro Council approved.

23 Q. And do you know when you came up with
24 this 5,157,000 that you could reduce out?

25 A. It would have probably been after the

1 mayor made a budget recommendation to the
2 council at the end of April. Once we knew what
3 the funding recommended amount was going to be,
4 then we would have -- we would have taken this
5 process to balance to what the mayor was
6 recommending.

7 Q. Okay, so then it would have -- you would
8 have figured out that you could reduce out this
9 5,157,900 sometime -- you started looking at
10 the end of April, and would you have discovered
11 what you could reduced out by the May budget?

12 A. We probably looked at it before then,
13 just because we knew what was -- we could tell
14 what was coming, what -- what was happening
15 with the economy with everything shut down.
16 And so, I'm -- I'm sure we started that process
17 before then, without knowing what the exact
18 amount needed to be.

19 Q. Let me -- I want to show you another
20 document, and we're going to go back and forth
21 on these documents just a bit.

22 What does the word "aspirational budget"
23 mean to you?

24 A. I think this probably came out of a
25 recommendation from the Chamber of Commerce

1 Education Report Card for the school district
2 to basically present an aspirational budget,
3 which means all of the things that we feel like
4 that were needed in the school district,
5 without necessarily looking at what funding
6 might be available.

7 Q. And who prepares this -- this document
8 that I'm showing you? Can you see it?

9 A. Uh-huh.

10 Q. Called Focus Investments?

11 A. Yes.

12 Q. Who prepares this?

13 A. Sean Braisted in communications prepared
14 this presentation.

15 Q. And where does he get the information
16 that he puts in this from?

17 A. Different sources, Dr. Battle and others.

18 Q. Does it come from Metro Schools?

19 A. Yes.

20 Q. Okay. I mean, this is not a document
21 that's prepared by the Chamber of Commerce,
22 correct?

23 A. Correct.

24 Q. Okay. But the term "aspirational budget"
25 means it's the budget that Metro Schools

1 prepares that shows if you can get everything
2 you wanted?

3 **A. That's the concept, yes.**

4 Q. Okay. Now, let's go down here for just a
5 second.

6 Do you know when this document was
7 prepared?

8 **A. Is this the -- so this was '21-22?**

9 Q. Yes.

10 **A. It would have been prepared sometime in
11 the spring of '21.**

12 Q. And could it possibly have been prepared
13 in January of -- did you say '21?

14 **A. If it's for '21-22, which is, I think, on
15 the front page.**

16 Q. Okay. It would have been prepared in
17 2021?

18 **A. If it's for the '21-22 fiscal year, which
19 begins July of '21, then it would have been
20 prepared in the spring of '21.**

21 Q. Okay.

22 Okay. Did you see this where it says,
23 "Forced to abandon our aspirational budget
24 request"?

25 **A. Yes.**

1 Q. Okay. So that means you actually did
2 have an aspirational budget request, correct?

3 **A. I don't think we ever had a budget
4 request. We were -- we were having those
5 discussions in early part of the budget
6 process, in, I guess, 2020.**

7 And then when the pandemic hit and we
8 knew that we were not going to be receiving
9 additional funding, then we no longer were
10 having those discussions. But I don't -- we
11 never actually put together an aspirational
12 budget.

13 Q. Let me go back to January 27, 2020. Are
14 you telling me that this was not the
15 information -- these required additions, that
16 was not your aspirational budget?

17 **A. Correct.**

18 Q. What did -- did you at any point in time
19 create an aspirational budget?

20 **A. Not for this year, not for 2020-21.**

21 Q. Okay. Would you agree that this
22 January 27th, 2020, document was prepared
23 before COVID and before the tornado?

24 **A. It was, but as I mentioned earlier, this
25 was just an attempt to show what our required**

1 **expenditures would be, continuity of operations
2 just moving forward from one year to the next.**

3 The aspirational budget items probably
4 would have been down at the bottom of the
5 document under "proposed changes," which is
6 blank on this document.

7 Q. Okay. Now, was it necessary -- when you
8 say continuity, was it necessary to give raises
9 with the continuity budget?

10 **A. It wasn't necessary, and raises aren't
11 reflected on this document.**

12 Q. Okay. So if we look at the January 27th,
13 2020 -- in fact, would raises be more -- more
14 akin to an aspirational budget?

15 **A. I think that would probably be up for
16 interpretation, because I know that the salary
17 step increases, many believe, are part of the
18 continuity of operations because it's an
19 obligation on the salary schedule that if an
20 employee moves from one step on the salary
21 schedule to another, they're going to receive
22 increased compensation based upon an additional
23 year of service.**

24 And so, the salary step would be part of
25 the continuity of operations, but not

1 **necessarily a cost of living adjustment in
2 addition.**

3 Q. Okay. And that's a COLA, cost of living?

4 **A. Correct. And --**

5 Q. Okay.

6 **A. -- this is reflecting what a 1 percent
7 COLA would cost, not a proposal for a 1 percent
8 COLA.**

9 Q. Okay, because the cost of living would be
10 more akin to an aspirational budget, correct?

11 **A. Well, yeah, it would be whatever
12 percentage is going to be proposed as a raise.**

13 Q. Okay.

14 **A. Across-the-board raise.**

15 Q. Okay. Now, did Metro Schools get a COLA
16 raise in January of 2020?

17 **A. I don't remember. I don't remember if it
18 was January of 2020. I know there was a
19 mid-year increase that was provided and
20 promised by the previous mayor.**

21 Q. Okay. And was that sometime in either
22 late fall or early 2020, before this budget
23 that we're talking about?

24 **A. Again, I don't remember which year that
25 was when that was given, but there was a**

1 mid-year 3 percent raise given to teachers,
 2 certificate employees. I'm drawing a blank as
 3 to which January that was.
 4 Q. Do you know the amount of that raise?
 5 A. The dollar amount?
 6 Q. Yes.
 7 A. I assume it would be something similar to
 8 multiplying this \$4.4 million figure here for a
 9 1 percent COLA by 3, and then divide by 2 since
 10 it was half year.
 11 Q. Okay. Now, what -- I've looked it up in
 12 the newspapers, and it looks like what they're
 13 saying is that the COLA was 7.5 million, the
 14 cost; does that sound about right?
 15 A. I -- I think so, yes.
 16 Q. Okay. And --
 17 A. And that would have been a half year
 18 cost.
 19 Q. Half year cost.
 20 And so then, you had the other half year
 21 cost coming up later, correct?
 22 A. Yes.
 23 Q. Okay. Now, this half year cost, do you
 24 know how that was funded?
 25 A. It was funded by the school district's

1 fund balance at the direction of Metro Finance.
 2 Q. Did any come from savings by any other
 3 governmental entity with regard to mortgage
 4 payments it was making?
 5 A. Mortgage payments?
 6 Q. Yes, whether it was Metro Housing
 7 Authority or Metro Development and Housing
 8 Authority paying double on a mortgage and they
 9 stopped paying double and that money was sent
 10 to Metro Schools?
 11 A. I don't know the details of the MDHA.
 12 Metro Finance just gives us whatever that
 13 number is, and I don't know how they come up
 14 with it.
 15 Q. Okay. But it came out of the fund
 16 balance?
 17 A. Yes.
 18 Q. Okay. Now, does Metro have to approve
 19 use of the fund balance by Metro Schools?
 20 A. Yes, Metro Schools and Metro Council.
 21 Q. And is that for all amounts that are
 22 taken out of the fund balance or amounts that
 23 go over a certain percentage or under a certain
 24 percentage?
 25 A. Any change in the total funding

1 allocation that Metro Council would approve for
 2 the school district, any change to that would
 3 have to be approved by the School Board and
 4 Metro Council.
 5 Q. Is the fund balance, is that in an
 6 account that's held by Metro Schools?
 7 A. It's -- all the accounts are held by
 8 Metro Government, but it's the fund balance
 9 reserve amount that accumulates over time based
 10 upon -- it's positive if revenues come in above
 11 projections and/or expenditures come in below
 12 projections. Sometimes it's positive,
 13 sometimes it's negative, depending upon the --
 14 the projections.
 15 Q. Is this the fund balance for -- or is
 16 there a fund balance that is primarily the fund
 17 balance of Metro Schools?
 18 A. Yes.
 19 Q. Okay. Meaning, if it's a fund balance,
 20 it's not for all entities at Metro Government,
 21 there's one specifically for the schools,
 22 correct?
 23 A. Correct, correct.
 24 Q. Okay. Do you have to keep a certain
 25 amount in that balance?

1 A. The -- Metro Council has a policy that
 2 all funds would have a minimum of a 5 percent
 3 fund balance, and the State Department of
 4 Education has a strong recommendation for a
 5 minimum 3 percent fund balance.
 6 Q. What does Metro Schools -- what do you
 7 do; is it 5 percent or is it 3 percent?
 8 A. We -- we try to stay with the 5 percent
 9 that is in Metro Council policy.
 10 Q. Five percent of what?
 11 A. Five percent of total operating expenses.
 12 Q. And did you do that for the years 2019
 13 through the current date?
 14 A. I -- when we used the fund balance for
 15 the mid-year pay raise, it reduced our fund
 16 balance below 5 percent.
 17 Q. So any time that you take any amount of
 18 money from the fund balance, it has to be
 19 approved by the School Board and by Metro
 20 Council?
 21 A. Correct.
 22 Q. Okay, that means even if you have, like,
 23 a \$150 million school fund balance and you want
 24 to take a million from that, you have to get it
 25 approved by the School Board and Metro Council?

1 **A. Correct.**

2 Q. Okay. Now, when these COLA raises came
3 in at 3 percent in 2020 to '21, half was paid
4 before the tornado?

5 **A. I think -- yeah, I think it was January**
6 **of 2020 when that mid-year 3 percent raise**
7 **would have been given, so that would have been**
8 **before the tornado.**

9 Q. And then sometime after this 2020-2021
10 school year starts, the -- was there another
11 COLA payment made?

12 **A. I would have to go back and -- and look**
13 **at the budget. We would need funding for the**
14 **second half of that mid-year COLA. We would**
15 **need additional funding to fund what had**
16 **already been given.**

17 Q. And did it match what had already been
18 given?

19 **A. Did -- did what match?**

20 Q. Was it the same, 3 percent, the same
21 amount?

22 **A. Yeah, it was the same amount from January**
23 **that we had to have to fully fund for a full**
24 **year, that mid-year 3 percent raise.**

25 Q. Okay. So in January, you had the 3

1 percent of about 7.5 million, and then you had
2 the same thing that was going to come in again
3 sometime in the school year 2020 through '21,
4 correct?

5 **A. Yes, it would have been -- we would have**
6 **needed 15 million. Since we used fund balance**
7 **for the first half, that -- that fund balance**
8 **amount was no longer there. And so, for a full**
9 **year, we needed additional funding of 15**
10 **million to fund what had already been given as**
11 **a mid-year 3 percent raise before.**

12 Q. Okay. So then, it came out of the fund
13 balance, but then you were asking Metro
14 Government to pay you back to put back in your
15 fund balance; is that correct?

16 **A. Yes.**

17 Q. 7.5 million?

18 **A. And then -- 7.5 million, and then the**
19 **additional 7.5 million for the full year's**
20 **worth of funding for what had already been**
21 **given.**

22 Q. Okay. Now -- so then, the fund balance
23 in the spring of 2020, do you know what it was,
24 approximately?

25 **A. I don't. I -- I just remember that**

1 **the -- the mid-year raise reduced whatever that**
2 **fund balance amount was below 5 percent.**

3 Q. Okay. But you knew you were going to get
4 it back because you were asking Metro
5 Government to pay you the funds to put back in
6 fund balance, correct?

7 **A. We hoped we were going to get it back,**
8 **yes.**

9 Q. Okay.

10 **A. That was --**

11 Q. Okay.

12 **A. -- our understanding.**

13 Q. Now, did anyone at any point in time ask
14 you, can we use the fund balance for these
15 \$1 million worth of jobs that we're eliminating
16 in central office?

17 **A. No. Again, use of the fund balance would**
18 **be something that would initially be**
19 **recommended by the mayor as part of our overall**
20 **funding and then approved by the Metro Council.**
21 **And there was no recommendation of the use of**
22 **our fund balance for anything like that,**
23 **because it was already so low.**

24 Q. Okay, could you also recommend to use the
25 fund balance to -- could you, could your office

1 say, why don't we use the 7.5 million that
2 we're going to get paid back to go in our fund
3 balance to fund this 1 million?

4 **A. No. The -- the funding sources are from**
5 **Metro Finance. We present an expenditure**
6 **budget to them, and then they determine how**
7 **they're going to fund it. And so, we don't --**
8 **we don't estimate how much funding we're going**
9 **to receive, including if any of it's going to**
10 **be fund balance. That's all handled by Metro**
11 **Finance.**

12 Q. Okay. So then, did Metro Finance tell
13 you, we're going to pay you back the
14 7.5 million?

15 **A. No, not necessarily, because everything**
16 **had gone chaotic with the pandemic. And so,**
17 **everyone was looking at major budget reductions**
18 **throughout the spring.**

19 Q. So did Metro Schools tell the Metro
20 Government, we want you to pay us back the
21 7.5 million to go in the fund balance?

22 **A. We told them that if we didn't receive**
23 **this, then that would require us to make**
24 **further cuts. So they understood that if they**
25 **didn't provide the additional funding, that we**

1 **would have to make further cuts to our budget.**
 2 Q. Okay. Now, did you tell them -- when you
 3 received the 7.5 million for the COLA that came
 4 out of fund balance, did you tell them then,
 5 you're going to have to pay us this back or
 6 we're going to have to make cuts to the budget?
 7 **A. Yes, that was under -- understood, yes.**
 8 Q. And did that occur before the tornado?
 9 **A. No, it probably occurred during the**
 10 **budget process, because that -- I mean, it was**
 11 **just something that was understood that you**
 12 **can't use your fund balance twice, so to speak,**
 13 **because you've already used it. So we would**
 14 **have to have additional funding to be able to**
 15 **continue what had already been provided as a**
 16 **mid-year raise.**
 17 Q. Did you see this document that's called
 18 Focused Investments when it was presented?
 19 **A. Yes.**
 20 Q. Who was it presented to?
 21 **A. I -- I know it was presented to the**
 22 **School Board, and then it was presented to the**
 23 **public for some community meetings.**
 24 Q. And did you see this statement that says
 25 they're "forced to abandon our aspirational

1 budget request"?
 2 **A. Yes.**
 3 Q. Okay. And did you know when you saw that
 4 that you had not made an aspirational budget
 5 request?
 6 **A. We knew that we had sort of abandoned all**
 7 **of those aspirational budget discussions once**
 8 **it became clear that the -- the funding**
 9 **situation was going to be dire.**
 10 Q. Okay. Now, for these discussions, that's
 11 something else, too, we have no paperwork on
 12 that. Can you recall any paperwork for this
 13 aspirational budget?
 14 **A. No, it was -- it was in the discussion**
 15 **phase when -- before it was abandoned, so no.**
 16 Q. Can you tell me anything that was in the
 17 aspirational budget request that you didn't
 18 get?
 19 **A. No. Again, this would have been**
 20 **Dr. Battle's first budget. And so, I don't**
 21 **think that we ever, you know, put anything**
 22 **together that would have been organized enough**
 23 **to -- to put on paper.**
 24 Q. Now, it says, "Metro Schools was required
 25 to identify over 20 million in cuts to balance

1 the budget." That's pretty standard when
 2 you're balancing these budgets, though, isn't
 3 it?
 4 **A. No.**
 5 Q. Okay.
 6 **A. No, it's not standard.**
 7 Q. Okay.
 8 MS. STEINER: I would like to mark --
 9 BY MS. STEINER:
 10 Q. And -- and this whole document, this
 11 appears to be the forced investments that was
 12 presented by Metro Schools, correct?
 13 **A. Correct. And this would be for the**
 14 **'21-22 year, as reflected on the first slide.**
 15 **So this would not be for the year that we're**
 16 **talking about, 2021.**
 17 MS. STEINER: Let's have this marked
 18 Exhibit Number 1.
 19 MR. FOX: No objection.
 20 (WHEREUPON, a document was marked as
 21 Exhibit Number 1.)
 22 BY MS. STEINER:
 23 Q. And I want to show you one more document.
 24 Do you recognize this called Funding Our
 25 Future?

1 **A. You -- yes, this is for 2021, okay.**
 2 Q. Okay. And do you know when this would
 3 have been prepared?
 4 **A. It would have been sometime in the spring**
 5 **of 2020.**
 6 MR. FOX: Would this be a time to
 7 take a break? It's been over an hour.
 8 MS. STEINER: Yes, because this --
 9 there's no -- yeah, let's take a break right
 10 now.
 11 MR. FOX: Okay.
 12 THE VIDEOGRAPHER: We are off the
 13 record at 10:24 a.m.
 14 (Short break.)
 15 THE VIDEOGRAPHER: We are on the
 16 record at 10:36 a.m.
 17 BY MS. STEINER:
 18 Q. Mr. Henson, can you see this e-mail
 19 that's on this document?
 20 **A. No, there's nothing on the screen.**
 21 Q. Hang on. It's because I'm not sharing
 22 this right, hang on one second.
 23 Ah, now can you see it?
 24 **A. It said that you're starting -- here it**
 25 **comes. Yes.**

1 Q. Okay. And is -- do you recognize this
 2 e-mail that was from you and it went to Barry
 3 Booker on February 11th, 2020?
 4 A. Let me read it. (Witness viewing
 5 document.)
 6 Yes.
 7 Q. Okay. And it looks like it's an e-mail
 8 to you from Sean Braisted; is that right?
 9 **A. Yes.**
 10 Q. Okay. That has the slide deck and the
 11 presentation?
 12 **A. Yes.**
 13 Q. Okay. And then the -- the document we
 14 got that follows that is that Funding of Our
 15 Future. Was this the document that was
 16 attached to this e-mail?
 17 **A. I can't see the document.**
 18 Q. Okay, here we go.
 19 Can you see this?
 20 MR. FOX: Not yet.
 21 MS. STEINER: You can't see it?
 22 **THE WITNESS: There.**
 23 MR. FOX: Now it populated.
 24 **THE WITNESS: Yes.**
 25

1 BY MS. STEINER:
 2 Q. Okay. And so then, this Funding of Our
 3 Future, fiscal year 2020 through 2021 budget
 4 presentation was sent to you by Sean Braisted
 5 on February 11th, 2020?
 6 **A. Yes.**
 7 Q. Okay.
 8 MS. STEINER: Could we have that
 9 marked --
 10 BY MS. STEINER:
 11 Q. Is this a true and accurate copy of
 12 the -- the presentation that was sent to you on
 13 that date?
 14 **A. I don't have any way of knowing that.**
 15 Q. Okay. Does it appear to be the -- the
 16 document that he sent to you on that day?
 17 **A. It -- it appears to be, since it has the**
 18 **2020-2021 budget, which is --**
 19 Q. Okay.
 20 **A. -- what he referenced since the e-mail**
 21 **was from February of 2020.**
 22 MS. STEINER: Could we have this
 23 marked Exhibit Number 2 to your testimony
 24 today.
 25 MR. FOX: No objection.

1 (WHEREUPON, a document was marked as
 2 Exhibit Number 2.)
 3 BY MS. STEINER:
 4 Q. Now, if you go down, it has a historic
 5 overview; is that correct?
 6 **A. It hasn't come up yet, but I think so.**
 7 **I'll wait until it comes up. There we go.**
 8 **Yes, showing the initial budget request**
 9 **and then what was actually approved.**
 10 Q. Okay. And it shows it for fiscal year
 11 '16 through '17 through '19 through '20; is
 12 that correct?
 13 **A. Correct.**
 14 Q. Okay. And for each of these years, there
 15 was -- there were deficits, correct?
 16 **A. There were deficits from what the initial**
 17 **request was to what was actually approved by**
 18 **the Metro Council, yes.**
 19 Q. Okay. And for '18 through '19, it was a
 20 40 million deficit, correct?
 21 **A. Correct, a deficit from what was**
 22 **requested.**
 23 Q. Okay. And would that be requested from
 24 the aspirational budget?
 25 **A. Well, we -- we weren't putting together**

1 **something called an aspirational budget at that**
 2 **time, but it would have included additional**
 3 **requests that, at that time, Dr. Joseph would**
 4 **have been making.**
 5 Q. And for '19 -- fiscal year '19 through
 6 '20, the deficit was 48 million, correct?
 7 **A. The -- yes, the difference between what**
 8 **was requested and what was approved was 48**
 9 **million.**
 10 Q. Okay. And the deficit for 2020 through
 11 '21, do you know what that deficit was?
 12 **A. No, because we changed the way that we**
 13 **were putting the budget together. This would**
 14 **have included -- the -- these years on this**
 15 **slide would have included any additional**
 16 **requests that were being proposed.**
 17 **And then in 2021, the plan was to present**
 18 **the aspirational budget, which never**
 19 **materialized, and so we ended up only**
 20 **presenting the continuity of operations items**
 21 **and then making the reductions that were needed**
 22 **to meet the funding allocation approved by**
 23 **Metro Council. So it was a different way of**
 24 **approaching the budget.**
 25 Q. Okay. Do you know what the aspirational

1 budget would have been in terms of dollars?
 2 **A. No. There was not really a way to add**
 3 **all of those items up because if you do one**
 4 **thing, then that would potentially change what**
 5 **you're asking for in another part of the**
 6 **aspirational request --**

7 Q. Okay.

8 **A. -- and so no.**

9 Q. Okay. So then, is it correct that for
 10 this budget, the aspirational -- the
 11 calculation of what the aspirational budget
 12 would have been was never done?

13 **A. For which year?**

14 Q. For 2020 through '21.

15 **A. Correct.**

16 Q. Okay. And do you know what the deficit
 17 was for the '21 -- '20-21 school year between
 18 what Metro was asking for and what Metro
 19 Schools was going to give?

20 MR. FOX: And for the record, I think
 21 we were saying "2021." It should be written as
 22 '20-21.

23 MS. STEINER: Yes.

24 MR. FOX: Right?

25 MS. STEINER: Yes.

1 MR. FOX: So it's not 2021 school
 2 year.

3 MS. STEINER: Let me just re-ask it,
 4 okay?

5 MR. FOX: Yeah, I just want to -- for
 6 the record, I want to make sure that the 2021
 7 is written correctly, '20-21.

8 MS. STEINER: I'm going to rephrase
 9 that question.

10 BY MS. STEINER:

11 Q. Okay. Do you know what the deficit was
 12 between what Metro Schools was asking for for
 13 the 2020 through '21 budget and what they
 14 actually got?

15 **A. No, because there was never -- there was**
 16 **never a budget put together similar to the**
 17 **numbers that are here on this Slide 3, because**
 18 **we were told that we needed to start looking at**
 19 **budget reductions and budget cuts because**
 20 **everything was shutting down due to the**
 21 **pandemic.**

22 **So this process on these -- for these**
 23 **years on this slide was never done for the**
 24 **'20-21 fiscal year.**

25 Q. Did Metro Government ever tell you an

1 exact amount that they wanted you to cut from
 2 your budget?

3 **A. I think they requested us to try to come**
 4 **up with reductions of somewhere in the**
 5 **\$50 million range for the 2019-2020 fiscal**
 6 **year, just for the spring.**

7 **And then we found out what the mayor's**
 8 **recommended funding allocation was going to be**
 9 **in late April of 2020, and we correspondingly**
 10 **began putting the budget together based upon**
 11 **that funding recommendation.**

12 Q. What was the mayor's funding
 13 recommendation in late April 2020?

14 **A. I assume it was whatever the final budget**
 15 **amount was. I don't remember the council**
 16 **changing it.**

17 Q. Okay, so it would have been somewhere
 18 around 933 million?

19 **A. Yes, if that's the -- the total.**

20 Q. Okay. And earlier when they said the 50
 21 million, who said that?

22 **A. Metro Finance.**

23 Q. Who at Metro Finance?

24 **A. I believe it was the prior finance**
 25 **director and -- I can't remember his name off**

1 **the top of my head -- and Talia Lomax, who was**
 2 **over the budgeting process.**

3 **And the reason that it was requested was**
 4 **due to the precipitous fall in sales tax**
 5 **revenues because everything had shut down due**
 6 **to the pandemic.**

7 Q. Who -- what was the name again?

8 **A. Talia Lomax.**

9 **But the previous finance director was**
 10 **also, of course, involved and --**

11 Q. Who was that?

12 **A. I'm drawing a blank.**

13 (An off-the-record discussion was
 14 held.)

15 **THE WITNESS: Kevin Crumbo.**

16 BY MS. STEINER:

17 Q. Kevin who?

18 **A. Crumbo, C-R -- C-R-U-M-B-O.**

19 Q. Okay. And did they -- when they
 20 contacted you about this, was it by phone?

21 **A. I think it was by phone. It may have**
 22 **also been in writing.**

23 Q. And when they contacted you, did they
 24 contact -- was anyone else on the phone call or
 25 was anyone else on the letter?

1 **A. It would have been to Dr. Battle, for**
 2 **sure, and I would have been a part of it.**
 3 Q. Okay. And do you know the date when they
 4 were saying 50 million?
 5 **A. I don't. It would have -- it would have**
 6 **been after everything shut down due to the**
 7 **pandemic, so it would have been sometime**
 8 **probably in March.**
 9 Q. Okay. So then, by late April, though,
 10 you knew you were going to get what you
 11 basically got in the final budget, correct?
 12 **A. We -- we knew what the mayor's funding**
 13 **recommendation was going to be, yes.**
 14 Q. And how did you know that?
 15 **A. Through his State of Metro Address and**
 16 **his budget presentation to Metro Council.**
 17 Q. Now, did anyone at any point claim that
 18 the deficit was going to be a hundred million?
 19 **A. I don't -- I don't remember that amount,**
 20 **but again, I could be wrong. I don't -- I**
 21 **don't remember that.**
 22 Q. Do you have a letter? Did you actually
 23 get an e-mail or a letter stating that the
 24 deficit's going to be 50 million?
 25 **A. I think so, but I can't remember.**

1 Q. Okay. Now, do you see the next page that
 2 says "cuts and savings to balance the budget"?
 3 **A. Yes.**
 4 Q. Okay, do you see it says "fiscal year '18
 5 through '19 to the current"?
 6 **A. Yes.**
 7 Q. Okay. Do you see contracted services at
 8 5.7 million?
 9 **A. Yes.**
 10 Q. Okay. Do you know whether or not the
 11 majority of that 5.7 million was incurred in
 12 the 2020 through '21 school year?
 13 **A. No, these would have been cuts that would**
 14 **have been made from fiscal year '18-19 through**
 15 **'19-20. So these would have been cuts that**
 16 **would have already been made prior to the**
 17 **2020-21 budget.**
 18 Q. Okay. So that would have been before you
 19 were told that you were going to have to cut it
 20 again?
 21 **A. Yes. We had --**
 22 Q. Okay.
 23 **A. We had been cutting the budget for about**
 24 **three years.**
 25 Q. Okay. And so then, if you pull up those

1 budgets, will you have 5.7 million in
 2 contracted services coming out?
 3 **A. Over time, yes.**
 4 Q. From fiscal year '18-19 through '19-20?
 5 **A. The fiscal year '18-19 budget and the**
 6 **fiscal year '19-20 budget, so both of those**
 7 **budgets, yes.**
 8 Q. Okay. Now, let me show you the '18-19
 9 budget. Can you see this? Is it being shared?
 10 **A. Yes.**
 11 Q. Okay. Does this look like a copy of the
 12 June 19th, 2018, '18 through '19 budget?
 13 **A. Yes.**
 14 Q. Okay. Can you see the contracted
 15 services reduction in this budget?
 16 **A. I -- I see down at the bottom where it**
 17 **says various accounts reduction to contracts,**
 18 **yes.**
 19 Q. Is that what it is? Okay.
 20 **A. That's part of it. That would have been**
 21 **one year's worth.**
 22 Q. Okay.
 23 MS. STEINER: Could we have -- I
 24 think we've already marked Exhibit 2, haven't
 25 we?

1 THE REPORTER: (Nodding head.)
 2 MS. STEINER: Okay.
 3 And just for the record, let's mark
 4 the 2018 through 2019 budget, too.
 5 MR. FOX: As Exhibit 3?
 6 MS. STEINER: Yes, as Exhibit 3.
 7 MR. FOX: No objection.
 8 (WHEREUPON, a document was marked as
 9 Exhibit Number 3.)
 10 BY MS. STEINER:
 11 Q. Now, I want to show you the May budget.
 12 Mr. Henson, do you recognize this? Is it
 13 up yet?
 14 **A. It's -- it's coming.**
 15 Q. Do you see it?
 16 **A. Yes. It doesn't have a date on that**
 17 **cover page.**
 18 Q. Okay. Yeah, there's the date; is that
 19 correct?
 20 **A. Oh, there it is. Yes.**
 21 Q. Okay. It's May 19th, 2020, correct?
 22 **A. Correct.**
 23 Q. Okay. And is this the budget that was
 24 prepared by your document for presentation to
 25 the School Board on May 19th, 2020?

1 **A. Yes.**
 2 Q. Okay.
 3 MS. STEINER: Can we have this marked
 4 Exhibit Number 4?
 5 MR. FOX: No objection.
 6 (WHEREUPON, a document was marked as
 7 Exhibit Number 4.)
 8 BY MS. STEINER:
 9 Q. And then let me show you the final
 10 budget.
 11 Does this document appear to be the final
 12 budget?
 13 **A. June --**
 14 Q. The June 30th?
 15 **A. The June 30th date, yes, that would be**
 16 **final.**
 17 MS. STEINER: Okay. Let's have that
 18 marked Exhibit 5.
 19 MR. FOX: No objection.
 20 (WHEREUPON, a document was marked as
 21 Exhibit Number 5.)
 22 BY MS. STEINER:
 23 Q. Okay. Now, I want to take you back and
 24 forth about these two budgets. Do you see the
 25 May 19th budget?

1 **A. I'm still seeing the June 30th budget.**
 2 Q. Are you?
 3 **A. It came up. It just came up.**
 4 Q. Do you see this May 19th budget?
 5 **A. Yes.**
 6 Q. Were you able to balance the budget with
 7 this May 19th budget, the way it's written?
 8 **A. Based upon the -- assuming this would be**
 9 **based upon the mayor's recommended budget**
 10 **amount. And then once the council approved the**
 11 **final budget, we came back and had the board**
 12 **approve a final budget that matched the total**
 13 **dollar amount that the council approved.**
 14 Q. Okay. Now, if a position is being
 15 eliminated and you find that there's going to
 16 be savings in the budget, do you have a duty
 17 for telling Dr. Battle, hey, we've got savings
 18 here that we didn't know we were going to have,
 19 or does she have a duty for telling you that if
 20 she finds there's savings there that she didn't
 21 know that they were going to have where you
 22 could use that money to fund the positions?
 23 **A. Well, if there were a position that --**
 24 **that was being eliminated, she would -- she**
 25 **would approve that. And if I didn't know about**

1 **it, she would make me aware so that it could be**
 2 **included in the budget documents.**
 3 Q. Okay. But if you found out later that
 4 you were going to have a savings in a
 5 particular area that would actually more than
 6 cover the cost of those jobs, does Metro
 7 Schools have any -- does anybody at Metro
 8 Schools have any responsibility for saying,
 9 hey, we've eliminated five jobs at cost of a
 10 million dollars, but we've got money over here?
 11 MR. FOX: Objection to form.
 12 BY MS. STEINER:
 13 Q. That we didn't know we were going to have
 14 and we can keep those jobs?
 15 **A. Well, when I was given the -- the five**
 16 **positions that are referenced here, that was**
 17 **not something that was a part of the**
 18 **discussion. It was, this is how we're going to**
 19 **be organized and this is the net change in**
 20 **number of positions. So that wasn't a part of**
 21 **the conversation.**
 22 Q. Did anyone tell you that the
 23 reorganization took place for any reason other
 24 than the budget?
 25 **A. Not necessarily, except that Dr. Battle,**

1 **this being her first budget, wanted to organize**
 2 **the district in a certain way.**
 3 Q. Does Dr. Battle -- when you were interim
 4 director of schools, did you have a job duty
 5 for being honest in dealing with the School
 6 Board?
 7 **A. Sure.**
 8 Q. Okay. And are you the secretary of the
 9 School Board, too?
 10 **A. They've appointed me that, yes.**
 11 Q. How long have you been secretary?
 12 **A. Since I've been there.**
 13 Q. Thirty years?
 14 **A. This is my 20th year.**
 15 Q. Twentieth year, okay.
 16 So for 20 years, you've been the
 17 secretary for the School Board, correct?
 18 **A. It's a title with really not any**
 19 **function, but yes.**
 20 Q. Okay. And as the secretary, do you have
 21 a duty for being honest to the School Board?
 22 **A. Regardless of whether I'm secretary, yes,**
 23 **I would be honest with the School Board.**
 24 Q. As chief operating officer, do you have a
 25 duty for being honest with the School Board?

1 **A. Yes.**

2 Q. Okay. When you were interim director,
3 did you have a duty for being honest to the
4 employees with regard to why they were losing
5 their jobs?

6 **A. Based upon working with -- through Metro
7 Legal on that, yes.**

8 Q. Okay. And did Dr. Battle, as well, have
9 a job duty for being honest with the workers
10 for why they were losing their jobs?

11 **A. That -- I mean, that would be up to her
12 as far as what information to share.**

13 Q. Okay. So then, can you think of any
14 situation where Dr. Battle could lie to a
15 worker for why they're losing their job?

16 MR. FOX: Objection to form.

17 **THE WITNESS: No. No.**

18 BY MS. STEINER:

19 Q. Okay. And is an elimination of a
20 position different, both under the statutes and
21 under Metro policy, than a non-renewal?

22 **A. I would have to defer to human resources
23 and Metro Legal regarding that.**

24 MR. FOX: Objection to the form.

25

1 BY MS. STEINER:

2 Q. Have you ever sent out letters to -- when
3 you were interim saying your job is being
4 non-renewed?

5 **A. Not that I can remember.**

6 Q. Okay.

7 Let me show you this. Can you see this
8 document dated January 15th, 2016?

9 **A. Yes.**

10 Q. Okay. And is this a letter to Dr. Lily
11 Leffler?

12 **A. Yes.**

13 Q. And is this from -- from you?

14 **A. Yes.**

15 Q. Okay. And does this tell Dr. Lily
16 Leffler that her employment's being
17 non-renewed?

18 **A. Yes.**

19 Q. Okay. So you actually have sent out
20 letters to employees telling them that their
21 contract's been non-renewed?

22 **A. This may be the only one, but yes,
23 obviously I sent this one.**

24 Q. Okay.

25 MS. STEINER: Can we have this marked

1 Exhibit Number 6?

2 MR. FOX: No objection.

3 (WHEREUPON, a document was marked as
4 Exhibit Number 6.)

5 BY MS. STEINER:

6 Q. And in this letter, you actually put in
7 the code section under which she's being
8 non-renewed, correct?

9 **A. I'm sure that came from Metro Legal. I
10 would not know the code section.**

11 Q. Did you know that there's a separate code
12 section for eliminations of positions?

13 **A. No.**

14 Q. Okay. Did you know that the School Board
15 has to approve the elimination of a position?

16 MR. FOX: Objection to the form.

17 **THE WITNESS: Not necessarily, no.**

18 BY MS. STEINER:

19 Q. Okay. Has anyone from Metro Schools --
20 have you ever eliminated a position out of your
21 department?

22 **A. No.**

23 Q. And what's the title of your department?

24 **A. It's just all finance.**

25 Q. How many employees are in finance?

1 **A. I don't know.**

2 Q. How many -- you're the head of finance,
3 correct?

4 **A. Correct.**

5 Q. Approximately how many employees are in
6 finance?

7 **A. I don't know. I have five direct
8 reports, but I don't know the total number.**

9 Q. Is it close to a hundred? Is it close to
10 50?

11 **A. It would be less than 50.**

12 Q. Okay. And your whole time there, you've
13 never non-renewed one of those employees?

14 **A. Correct.**

15 Q. Okay.

16 Now, I want to ask you a question about
17 this May 19th budget. Can you see it?

18 **A. Yes.**

19 Q. Okay. Do you see where it says
20 "certificated insurance, insurance trust
21 3.8 million"?

22 **A. Yes.**

23 Q. Okay. If you had not had that cost,
24 would you agree that you could have deleted
25 this 1 million central office reorg at the

1 bottom of the line?

2 **A. Well, the reorganization was Dr. Battle's**
3 **decision. So I don't know if that would have**
4 **come into play in her thinking or not.**

5 Q. Okay. If it was done due to the budget,
6 would you agree that if you found 3.8 million,
7 that then you would not have to go through the
8 elimination of these positions?

9 **A. Well, we also could have done some of the**
10 **other things that are reductions in this --**
11 **instead of that.**

12 Q. Okay. Did you not state -- have you not
13 made statements before that when you are
14 eliminating items from the budget, that Metro
15 Schools always tries to eliminate the
16 non-personnel items first before you start
17 affecting salaries?

18 **A. Yeah, I think we mentioned that**
19 **earlier --**

20 Q. Okay.

21 **A. -- that we look at non-personnel costs**
22 **first. But in this case, it was Dr. Battle's**
23 **first budget and she was looking to reorganize**
24 **the school district.**

25 Q. Uh-huh.

1 And can you tell me why she wanted to get
2 rid of the jobs of all five of these
3 Plaintiffs, all -- to affect the jobs of all
4 five of these Plaintiffs, all of whom had
5 engaged in protected activity?

6 MR. FOX: Objection to the form.

7 **THE WITNESS: No, I can't tell you**
8 **why.**

9 BY MS. STEINER:

10 Q. Did you know that the -- of the people
11 affected, that it was a huge percentage of
12 these five?

13 MR. FOX: Objection to the form.

14 BY MS. STEINER:

15 Q. Meaning that it was a huge percentage of
16 the people who had engaged in protected
17 activity versus those who did not?

18 **A. No.**

19 Q. Do you know whether or not there's been
20 any investigation by Metro Schools to determine
21 whether or not Dr. Battle had some sort of axe
22 to grind with these employees who had engaged
23 in protected activity?

24 **A. I'm not aware of anything like that.**

25 Q. Okay. Are there any -- so then, even if

1 there's money in the budget to cover these
2 jobs -- strike that.

3 Did anyone ask you to find funds anyplace
4 else in this budget to -- so that the
5 elimination of these positions would not be
6 necessary?

7 **A. Not in those words, no.**

8 Q. If they had asked you that, could you
9 have told them, you know, the certificated
10 insurance trust that we've got in here for
11 3.8 million, we're not going to have to pay it?

12 **A. No, because the insurance increase was**
13 **based upon the actuarial study, and so that was**
14 **something that we had to do to keep the**
15 **insurance trust fund solvent.**

16 Q. Were you aware that in the final
17 budget -- let's go to the final budget -- that
18 disappeared?

19 **A. Yes.**

20 Q. Okay. And do you know -- and were you
21 aware that before the final budget was
22 submitted, you knew that you weren't going to
23 have that \$3.8 million expense?

24 **A. No.**

25 Q. Okay, it's not in the final budget, is

1 it?

2 **A. Correct.**

3 Q. Okay, so you knew you weren't going to
4 have that expense, correct?

5 **A. After the previous version was put**
6 **together, yes.**

7 Q. Okay. Did anyone in your department say,
8 hey, we've saved 3.8 million on insurance, you
9 do have, Dr. Battle, the ability to save these
10 1 million jobs [sic]?

11 **A. No. When we -- when it was determined**
12 **what our funding amount was going to be, i.e.**
13 **also our budget cuts needed to be, the**
14 **insurance trust met again after the fact and**
15 **made the decision to use some of their reserve**
16 **in the insurance trust fund for one year to put**
17 **the increase off for a year to help balance the**
18 **budget because we were having to make such**
19 **budget reductions.**

20 Q. Would it have been possible to save these
21 jobs for at least one year by use of that
22 savings in insurance?

23 **A. We would have had to make reductions**
24 **elsewhere --**

25 Q. If you --

1 **A. -- if we didn't reduce those positions.**
 2 Q. If you had 3.8 million in savings,
 3 correct?
 4 **A. Well, we had 3.8 million that was no**
 5 **longer going to be an increase cost.**
 6 Q. Okay. If you had the 3.8 million that
 7 was no longer going to be an increase cost in
 8 this budget, gets down to zero, could you have
 9 not used that 3.8 million that you've got
 10 bucketed away to pay for the insurance to pay
 11 for these 1 million in jobs?
 12 **A. Their -- it's further down on the -- on**
 13 **this list, but there were other items in**
 14 **addition to that where those reductions would**
 15 **have been more, and additional reductions would**
 16 **have been required of a million dollars.**
 17 Q. I don't know what you just said, could
 18 you explain that?
 19 **A. Sure.**
 20 **This version does not contain the**
 21 **additional 3.8 million cost from the insurance**
 22 **trust; yet, we still had to make reductions of**
 23 **approximately \$15.2 million. And so, we would**
 24 **have been required to find another million**
 25 **dollars, an additional million dollars in**

1 **reductions if we would not have done that.**
 2 Q. Okay. And are you talking about this
 3 COLA?
 4 **A. No.**
 5 Q. What are you talking about, the
 6 15.2 million?
 7 **A. It's in the bottom of the page.**
 8 Q. Okay.
 9 **A. Where it says "total proposed changes,**
 10 **\$15.2 million reduction."**
 11 Q. Okay.
 12 **A. It would have -- if we -- that includes**
 13 **not including the 3.8 million for certificated**
 14 **insurance.**
 15 **And so, if we would not have done the**
 16 **five positions with a million-dollar reduction,**
 17 **we would have had to find a million-dollar**
 18 **reduction somewhere else.**
 19 Q. Okay. Let's go to the May 19th budget.
 20 Do you see the May 19th budget here?
 21 **A. Yes.**
 22 Q. Okay. And do you see where the
 23 3.8 million is listed in this May 19th budget?
 24 **A. Yes.**
 25 Q. Okay. Do you see down at the very bottom

1 of the page, this budget balances, doesn't it?
 2 **A. It balanced with the amount that we were**
 3 **provided at that time.**
 4 Q. Okay. Now, do you see the -- the -- and
 5 in this budget, you took out 1 million for the
 6 central office reorg, correct?
 7 **A. Correct. That --**
 8 Q. Okay.
 9 **A. That was in there the whole time.**
 10 Q. And if you had this 3.8 million in costs
 11 that had been saved, you would not have had in
 12 this June -- May budget to reduce the 1
 13 million, correct?
 14 **A. There were obviously other things that**
 15 **occurred between this budget and the final**
 16 **budget where I would have to compare them side**
 17 **by side.**
 18 Q. I'm -- I'm asking you about this May 19th
 19 budget, okay? Look in time back to May 19,
 20 2020. If you knew you were not going to have
 21 this 3.8 million, would you agree, basic math,
 22 that then you would not have had to remove the
 23 five, 1 million in positions?
 24 **A. If that were Dr. Battle's decision, yes.**
 25 Q. Okay. So financially, you would not have

1 had to remove these jobs, correct?
 2 **A. Again, I would need to go back and look**
 3 **at both -- both documents side by side to see**
 4 **what else changed, because obviously there were**
 5 **other changes that occurred.**
 6 Q. Okay.
 7 Did you have to increase the salary to
 8 \$15 an hour?
 9 **A. Yes. That was something that was**
 10 **approved by Metro Council.**
 11 Q. Did you have to do that?
 12 **A. Yes.**
 13 Q. Was that an aspirational item?
 14 **A. It was something that was important to**
 15 **Metro Council, as well as us, that was**
 16 **incorporated into the final budget when they**
 17 **approved it.**
 18 Q. Okay. Now...
 19 Okay. The \$15-an-hour increase at the
 20 cost of 3 million was not in the May budget,
 21 was it?
 22 **A. Correct. It was included in the final**
 23 **budget that the Metro Council approved in June.**
 24 Q. And if that had not been in the
 25 council -- the budget that was approved in

1 June, would you not agree that you could have
2 funded these five positions at a cost of 1
3 million?

4 **A. We could have or we could have reduced**
5 **the reductions in the other areas that were**
6 **cut.**

7 Q. Okay. Now, reducing out five jobs at the
8 cost savings of a million, in the big scheme of
9 things, that's only, like we said before, 1
10 percent of 1 percent, correct?

11 **A. Correct.**

12 Q. Okay. And in a budget that's this large,
13 had anyone asked you to find the reduction
14 someplace else, you could have?

15 **A. We would have, yes.**

16 Q. Okay. Now, I want to ask you about
17 vacancies.

18 You put a hiring freeze on, did you not,
19 in the spring of 2020?

20 **A. Yes.**

21 Q. Okay. And that meant if there was an
22 open position that was already funded through
23 the budget, it did not have to be -- it could
24 not be filled, correct?

25 **A. There were lots of caveats to that,**

1 **because we filled all teaching positions, we**
2 **filled all open bus driver positions, so it**
3 **wasn't all positions.**

4 Q. If a position's vacant, you still ask for
5 funding for it from Metro Schools, from -- from
6 Metro Council, correct?

7 **A. Yes, and then --**

8 Q. Okay.

9 **A. -- as you said, we would have a reduction**
10 **for a proposed vacancy and turnover that would**
11 **occur during the year.**

12 Q. And if a job is -- if a job is vacant,
13 you will receive funds for it even for the time
14 period that it's vacant, correct?

15 **A. Correct.**

16 Q. Okay. And in this time period that it is
17 vacant, even if it's vacant half a year, for
18 instance, if it's an \$80,000 salary, you
19 receive 80,000 even though you're not paying
20 that salary for half the year, correct?

21 **A. Correct.**

22 Q. Okay. And -- let me show you this again.
23 I think this is the document.

24 Do you see this? And I think we've
25 already marked this an exhibit. It's the

1 document that's entitled Budget Presentation?

2 **A. Yes.**

3 Q. Okay. And this was prepared before the
4 tornado, correct? The information on it was
5 prepared before the tornado, correct?

6 **A. It looks like it was prepared in**
7 **February, so yes.**

8 Q. Okay. And before COVID hit, correct?

9 **A. Correct.**

10 Q. Okay. Before you knew you were going to
11 have reductions, correct?

12 **A. Correct.**

13 Q. Okay. Let's go down to -- and you
14 approved this, correct?

15 **A. I approved this?**

16 Q. Yes, this document?

17 **A. This was a document that the**
18 **communications department put together for**
19 **presentation from Dr. Battle.**

20 Q. Okay. But you -- you were there when it
21 was presented?

22 **A. Yes.**

23 Q. And as far as you were concerned, when it
24 was presented, it was accurate, correct?

25 **A. Yes.**

1 Q. Okay. Because if it wasn't accurate, you
2 would have stood up and said, where are you
3 coming up with these figures, they're not
4 right?

5 **A. I don't know if I'd have stood up. I**
6 **would have asked about it, though.**

7 **And this was, of course, before the**
8 **actual presentation was made.**

9 Q. Okay. Now, do you see where it says the
10 baseline budget as of February 11, 2020, it's
11 got you at 950 million, correct?

12 **A. Correct. That meant that we had to have,**
13 **at that point in time, \$950 million to not have**
14 **to make cuts to the budget.**

15 Q. Okay.

16 Do you know who Mark North is?

17 **A. Yes.**

18 Q. Who is he?

19 **A. He's currently our director of high**
20 **school athletics.**

21 Q. Does he have any -- did he ever have
22 anything to do with the budget?

23 **A. No. He was our government liaison**
24 **position for a while.**

25 Q. And did he -- same question: Did he have

1 an obligation to be honest with Metro
 2 Government with what he was telling the council
 3 about the budget?
 4 **A. Yes.**
 5 Q. Okay. And do you recognize -- let's see,
 6 am I sharing a document yet?
 7 **A. Not yet.**
 8 Q. Okay. I will.
 9 Okay. Do you see this document?
 10 **A. Yes.**
 11 Q. And it is an e-mail from Adrienne Battle
 12 to Mark North?
 13 **A. And others, yes.**
 14 Q. Okay. And it says, "Attached is the
 15 updated document, thanks"?
 16 **A. Yes, and it's relating to a department**
 17 **budget questionnaire.**
 18 Q. Okay. And does Dr. Battle and Mark North
 19 have an obligation for being honest with the
 20 council about these questionnaires?
 21 **A. Yes.**
 22 Q. Okay. It's dated May 5th, 2020?
 23 **A. Yes.**
 24 Q. Okay. You are on the e-mail, too,
 25 correct?

1 **A. Correct.**
 2 Q. Okay. And here's a questionnaire. Do
 3 you recall receiving this? And have I skimmed
 4 through it too fast?
 5 **A. I know that we've had this kind of**
 6 **questionnaire in the past.**
 7 Q. Do you recall receiving this on May 5th
 8 of 2020?
 9 **A. No, but I have no idea that I -- I have**
 10 **no idea why I wouldn't.**
 11 Q. Okay.
 12 **A. I don't recall receiving it on that date.**
 13 Q. Okay. Do you see Number 4 where it says,
 14 "Regarding your department's departmental
 15 savings, what's the amount of your department's
 16 targeted savings for fiscal year 2020?"
 17 And it says, "The School Board builds
 18 targeted savings into its budget request,
 19 including the 6.2 million targeted savings
 20 suggested by the finance department for fiscal
 21 year 2020."
 22 Do you see that?
 23 **A. Yes.**
 24 Q. Okay. "As a result of the spending
 25 freeze and the fact that schools have been off

1 campus due to COVID, they're going to save
 2 approximately 52 million by the end of fiscal
 3 year 2020." Is that a true statement?
 4 **A. That was the goal, was -- and I believe**
 5 **the 50 million came from Metro Finance. The**
 6 **targeted savings has a specific definition for**
 7 **Metro Government departments, not necessarily**
 8 **the school district, and that's why it's in**
 9 **quotes.**
 10 **But the goal was to save \$50 million by**
 11 **the end of -- which would be June 30th of 2020,**
 12 **for the '19-20 year once everything shut down**
 13 **and sales tax revenue plummeted.**
 14 Q. Were those targeted savings that the
 15 School Board wanted to make?
 16 **A. No, these were savings that, again, Metro**
 17 **Finance and the mayor's office requested of us.**
 18 **And so, we spent from mid March through the end**
 19 **of the fiscal year trying to reduce as much as**
 20 **we possibly could, and their goal for us was**
 21 **this \$52 million number.**
 22 Q. This says that the suggested number by
 23 the finance department was 6.2 million.
 24 **A. That's the -- the, quote-unquote,**
 25 **targeted savings. And again, it's -- it's a**

1 **specific definition for Metro Government**
 2 **departments. And so, it's not necessarily the**
 3 **amount of savings that we would have, and**
 4 **that's why the 52 million is in this same**
 5 **answer.**
 6 Q. Okay. You confused me completely.
 7 This sounds like to me that the School
 8 Board had into its budget 6.2 targeted savings.
 9 MR. FOX: Objection. I think you
 10 miss --
 11 BY MS. STEINER:
 12 Q. Where it was going to be money that was
 13 saved.
 14 MR. FOX: You mean 6.2 million?
 15 BY MS. STEINER:
 16 Q. 6.2 million. And that was the amount
 17 that was suggested by the finance department
 18 for fiscal year 2020?
 19 **A. Fiscal year 2020 would be '2019-20.**
 20 Q. Okay. But it did have the 6.2 million
 21 savings that it had made for 2019-2020,
 22 correct?
 23 **A. Yes. Again, it's semantics on the term**
 24 **"targeted savings." It's got a different**
 25 **definition from Metro Finance than just regular**

1 **savings.**

2 Q. And so, what is the definition of
3 "targeted savings" that Metro uses?

4 **A. They ask all of their departments to**
5 **target additional budget reductions as part of**
6 **their regular budget process. And it doesn't**
7 **necessarily apply to the school district, it's**
8 **for regular Metro departments.**

9 Q. Okay. But you're telling Metro Council
10 that the School Board does, indeed, have
11 targeted savings?

12 **A. What we're saying is, we do look for**
13 **savings in our budget request as we go through**
14 **our budget process.**

15 Q. And you found 6.2 million?

16 **A. It says, "Including the 6.2 million**
17 **targeted savings suggested by the finance**
18 **department."**

19 Q. Okay.

20 **A. And so, as part of the budget process,**
21 **Metro Finance indicates what targeted savings**
22 **amounts should be from Metro Government**
23 **departments, but again, that doesn't**
24 **necessarily apply to the school district. And**
25 **so, we're basically telling them we do that as**

1 **part of our budget process.**

2 Q. Whether it applies to you or doesn't
3 apply to you, you do it as part of your
4 process, correct?

5 **A. Correct.**

6 Q. Okay, and you did it for fiscal year 2020
7 and you had about 6.2 million saved?

8 **A. Actually, we had more than that that was**
9 **saved in 2019-20.**

10 Q. Okay, you had 52 million by the end of
11 2020?

12 **A. Well, that was our goal. This -- this**
13 **was not at the end of the fiscal year when this**
14 **came out.**

15 Q. Okay. That's what it looked like you
16 were going to save by the end of fiscal year
17 2020?

18 **A. That was our goal, yes.**

19 Q. Okay. And so, Adrienne Battle knew that
20 by the end of -- she knew in May that by the
21 end of December, you're going to have 52
22 million in savings?

23 MR. FOX: Objection to form.

24 **THE WITNESS: Our fiscal year ends in**
25 **June.**

1 BY MS. STEINER:

2 Q. She knew that by the end of June, then,
3 you were going to have 52 in savings?

4 MR. FOX: Objection to the form.

5 **THE WITNESS: She knew that was the**
6 **goal.**

7 BY MS. STEINER:

8 Q. Okay. And if this letter is dated May
9 5th, 2020, you've only got three weeks in May,
10 four weeks in June, so the goal was going to be
11 met in -- in seven weeks, correct?

12 MR. FOX: Objection to the form.

13 **THE WITNESS: The goal started when**
14 **the letter came from Metro Finance sometime in**
15 **March.**

16 BY MS. STEINER:

17 Q. Okay. But by the time you sent this
18 letter to Metro Council on May 5th of 2020, you
19 knew pretty well, because you weren't talking
20 about three years out, you were talking about
21 only seven weeks out, correct?

22 **A. Uh-huh.**

23 Q. So in terms of being accurate or not
24 accurate, you were pretty accurate that that's
25 how much you were going to save?

1 **A. That was our estimation at that time.**

2 Q. And is that how much you saved?

3 **A. I don't remember the exact amount.**

4 Q. Do you know approximately how much you
5 saved?

6 **A. Not off the top of my head from 2020, no.**

7 Q. Let's go down where it's talking about
8 full-time employees in your department.

9 "How many budgeted employees do you
10 have?" And it says 9,051.9 in the operating
11 budget.

12 "How many unfilled FTE employees does
13 your department currently have?" And it said
14 for the operating budget, over 200; is that
15 correct?

16 **A. That's what it says.**

17 Q. Okay. Now, if you assume that each of
18 these employees -- how much does a bus driver
19 make?

20 **A. I don't know the total position cost**
21 **because you would need to include insurance and**
22 **pension.**

23 Q. Does -- when you have these unfilled
24 FTEs, does your department keep track of who
25 they are and how much money you're not having

1 to spend because they're unfilled?
 2 **A. Human resources mainly does that.**
 3 Q. Okay. And would that be Lisa Spencer?
 4 **A. She's in human resources, yes.**
 5 Q. Do you have -- if -- if this money,
 6 though, that's not used in the budget for a
 7 position, where does it go?
 8 **A. It goes to offset the sales tax revenue**
 9 **reduction that was occurring at the same time.**
 10 **It would be a part of that 52 million in**
 11 **overall savings that was our goal.**
 12 Q. Okay, question's a little different.
 13 Every year you've been there, you've got
 14 unfilled FTE positions, correct?
 15 **A. As large as we are, yes, we'll have --**
 16 Q. Okay.
 17 **A. -- unfilled positions.**
 18 Q. And so, I'm not talking about sales tax
 19 or anything else, okay? What I want to know
 20 is, when you have these unfilled positions,
 21 supposing it's -- it's like Mo Carrasco, his
 22 position went unfilled and I believe he was
 23 making 185,000 a year. If you have a position
 24 like that that's unfilled where you've gotten
 25 the funding from Metro Government to pay for

1 the position, where does the money go? Does it
 2 go in a particular account?
 3 **A. It goes to our fund balance, and our fund**
 4 **balance is also affected by revenue. And so,**
 5 **that's why I mentioned sales tax, because it's**
 6 **a combination of revenue and expenditures.**
 7 Q. At the end of -- does it go on a routine
 8 basis to fund balance or is it a calculation
 9 that's made at the end of the year?
 10 **A. It's usually just looked at at the end of**
 11 **the year, but it takes place throughout the**
 12 **year.**
 13 Q. And do you know how much money was
 14 transferred to the fund balance at the end of
 15 the 2019-2020 school year?
 16 **A. I do not.**
 17 Q. Now, have you ever requested to use the
 18 fund balance for anything where Metro
 19 Government has said no?
 20 **A. It's rare that we would request the use**
 21 **of fund balance that didn't already come from**
 22 **the Metro Council, so I don't remember -- I**
 23 **don't remember that being the case.**
 24 Q. Would you agree that the money saved by
 25 these vacancies -- let me show you this

1 document real quick.
 2 Okay. Can you see this Excel document?
 3 MR. FOX: No.
 4 **THE WITNESS: Not yet.**
 5 **Yes.**
 6 BY MS. STEINER:
 7 Q. Okay, good.
 8 Okay. Have you ever seen a document like
 9 this before?
 10 **A. No.**
 11 Q. Okay.
 12 **A. Not that I remember.**
 13 Q. Assuming that this is the vacancies that
 14 were sent to the employees at -- at Metro
 15 Schools, do you see down here at the very
 16 bottom where it's got -- it's got all the
 17 departments numbered on the side. Do you see
 18 that, from about 1200 -- the function
 19 department, 1200 --
 20 **A. Yes.**
 21 Q. -- all through, and it shows all the
 22 positions that are unfilled at Metro Schools.
 23 I'm going to ask you a question about this.
 24 Do you see the number of unfilled
 25 positions running somewhere around 1,000?

1 **A. Yes. I don't -- I don't know where this**
 2 **came from, but I see that number.**
 3 Q. Okay. Do you see the sum of the salaries
 4 for that running somewhere around 65 million?
 5 **A. Yes.**
 6 Q. Okay. Does that seem about accurate for
 7 what the vacancies would have been for that
 8 year?
 9 **A. I don't -- I don't know, and I don't know**
 10 **when this was put together, but very well could**
 11 **have been after the hiring freeze was**
 12 **implemented.**
 13 Q. Okay.
 14 MS. STEINER: Can we have this Excel
 15 document sheet marked the next-numbered
 16 exhibit?
 17 MR. FOX: Problem is I don't think he
 18 had ever seen it before.
 19 MS. STEINER: Well, for
 20 identification purposes is fine.
 21 MR. FOX: Okay.
 22 (WHEREUPON, a document was marked as
 23 Exhibit Number 7, for identification.)
 24 BY MS. STEINER:
 25 Q. And so then, when the hiring freeze was

1 put on Metro Schools, you did save a lot more
 2 than what you would have thought you were going
 3 to save and -- what was -- what you normally
 4 would have saved in unfilled positions,
 5 correct?
 6 **A. When the hiring freeze was implemented?**
 7 Q. Yes.
 8 **A. Yes, we would have saved more than we**
 9 **typically would have.**
 10 Q. Okay. We're back to the final budget.
 11 Can you see that?
 12 **A. No, it's showing some e-mail exchange.**
 13 MR. FOX: Looks like your folder or
 14 something.
 15 MS. HARBISON: Yeah, can you all look
 16 away?
 17 **THE WITNESS: Sorry, didn't mean much**
 18 **to me.**
 19 MR. FOX: Didn't mean anything, it's
 20 just a folder.
 21 MS. HARBISON: Just in case. You all
 22 are okay now.
 23 BY MS. STEINER:
 24 Q. Okay, hang on here.
 25 Okay, am I sharing anything?

1 MR. FOX: Yes.
 2 BY MS. STEINER:
 3 Q. What is it?
 4 **A. It's the May 19th version.**
 5 Q. Thank you.
 6 MR. FOX: Some Border Collies.
 7 MS. STEINER: That's just one, he
 8 moves fast.
 9 MS. HARBISON: Yeah, keep looking
 10 away.
 11 BY MS. STEINER:
 12 Q. Okay. Now, can you see the final budget?
 13 **A. Yes.**
 14 Q. Okay. May 19th and final budget.
 15 For May 19th, in this budget, do you have
 16 built-in fluff? And I don't know what you
 17 would call it, but built-in savings?
 18 **A. No. The only savings really would**
 19 **potentially be, as you said earlier, not having**
 20 **a position filled the entire year.**
 21 **But when we budget for positions, we**
 22 **budget an average cost. And so, if someone**
 23 **comes in with family insurance coverage, that's**
 24 **going to be a lot more than somebody coming in**
 25 **with single insurance, for example.**

1 **So a budget's an estimate and it's --**
 2 **it's our best estimate that we have, but we**
 3 **don't have anything considered fluff.**
 4 Q. Do you ever overestimate the expenses?
 5 **A. Over --**
 6 Q. Overestimate?
 7 **A. What do you mean by overestimate?**
 8 Q. Put these figures a little higher than
 9 what they are to make sure that you've got
 10 everything covered?
 11 **A. No, because we want to be able to do**
 12 **everything we can for the -- for the students,**
 13 **so no.**
 14 Q. Now, for vacancies, you've only got
 15 listed 3 million; is that correct?
 16 **A. That is correct.**
 17 Q. Okay. And you saw Mr. North's statements
 18 to the council that the vacancies were at least
 19 200?
 20 **A. At -- at that point in time, during that**
 21 **fiscal year after the hiring freeze was**
 22 **implemented, yes.**
 23 Q. And I believe you testified just a second
 24 ago that it was possible that the vacancies
 25 could have saved up to, what was it, 58

1 million?
 2 **A. Well, no, the -- the vacancies by**
 3 **themselves would not have been the only thing**
 4 **that we would have been identifying as savings**
 5 **during the -- during that last quarter of 2020.**
 6 Q. For this vacancy turnover rate, do you
 7 know how many jobs are included in this 3
 8 million figure that you've got there?
 9 **A. No. This was a number that we had been**
 10 **using for a few fiscal years. And we also have**
 11 **every year an increase to our charter school**
 12 **transfer, which is a moving target.**
 13 **And so, we intentionally did that a**
 14 **little lower as far as a reduction goes because**
 15 **we don't know when new employees come in, where**
 16 **they're going to come in on the salary scale,**
 17 **what kinds of insurance they're going to take.**
 18 **Plus, that charter school transfer number that**
 19 **we use in the budget can fluctuate.**
 20 Q. Okay, so the vacancy turnover rate is low
 21 in this budget, correct?
 22 **A. Vacancy turnover rate?**
 23 Q. The vacancy turnover that you've got here
 24 at the savings of 3 million is low?
 25 **A. Well, we don't know what it's going to**

1 **be. This is for 2021, so we weren't -- we**
 2 **weren't under a hiring freeze at that time.**
 3 Q. Okay, so you don't know whether or not
 4 it's going to be \$10,000 or whether or not it's
 5 going to be \$50 million?
 6 **A. Well, we don't think it's going to be**
 7 **either of those numbers.**
 8 Q. Okay. So then, what do you think it's
 9 going to be?
 10 **A. We use our best estimate working with**
 11 **human resources to put a number in the budget.**
 12 Q. And I believe you just testified that
 13 this \$3 million figure that's used is on the
 14 low end of that.
 15 **A. It's on the low end compared to when we**
 16 **were under a hiring freeze, yes.**
 17 Q. Okay. And when you were under a hiring
 18 freeze, you knew you were under a hiring freeze
 19 as of May 19th, 2020, didn't you?
 20 **A. Yes, but this is for the 2021 fiscal**
 21 **year. We were not under a hiring freeze in**
 22 **2021. This -- the hiring freeze was in '19-20.**
 23 Q. Okay. So then, for the vacancy turnover
 24 rate for 2020 through '21, you only have 3
 25 million in there for that, correct?

1 **A. For that one thing, yes.**
 2 Q. Okay. Now, what was it for that year?
 3 **A. I don't know.**
 4 Q. Can you figure it out?
 5 **A. I don't know if I could or not. Human**
 6 **resources would have to do it.**
 7 Q. Okay.
 8 Did you know that Mr. Booker was able to
 9 testify as to what he thought that figure was
 10 and that it was much greater than the 3
 11 million?
 12 **A. No.**
 13 Q. Did you read Mr. Booker's deposition?
 14 **A. No.**
 15 Q. Have you read any of the depositions
 16 given in this case?
 17 **A. No.**
 18 Q. Mr. Booker is the -- the employee under
 19 you, correct? He's one under you?
 20 **A. Yes, he's one of them, yes.**
 21 Q. Okay. So he's like second in charge of
 22 the finance department, correct?
 23 **A. Well, they're all on the same level.**
 24 Q. Okay. And he's an honest employee,
 25 correct?

1 **A. Correct.**
 2 Q. Okay. Now, can you see this budget that
 3 I've put up here that says Draft Number 1, and
 4 it's got March 23rd, 2020?
 5 **A. Yes.**
 6 Q. Okay. Was this created before or after
 7 you knew that you were going to have to have a
 8 reduction; do you know?
 9 **A. We would not have known what our funding**
 10 **allocation was going to be at that point.**
 11 Q. Okay. So would you have put everything
 12 in this March 23rd, 2020, budget that you
 13 thought you would need for the next year?
 14 **A. No, this would only show what those items**
 15 **that we had to have as a continuity of**
 16 **operations budget. And if we didn't receive**
 17 **that amount, then we would have to make budget**
 18 **reductions.**
 19 Q. Okay. The certificated step increase,
 20 you got 5.4 million over there. Why is that
 21 not in a cost category?
 22 **A. There was still discussion about, as far**
 23 **as our continuity of operations, what all we**
 24 **wanted to include in it. And so, these were**
 25 **only showing items that we would have -- at**

1 **that -- this point in time that we would have**
 2 **to do moving forward to create a continuity of**
 3 **operations budget.**
 4 Q. So was the 5.4 million needed to do a
 5 continuity --
 6 **A. It was determined that --**
 7 Q. -- budget?
 8 **A. -- that needed to be a part of the**
 9 **continuity of operations later.**
 10 Q. Okay. But as of March 23rd, 2020, it was
 11 not?
 12 **A. Yeah, this is just a draft document, so**
 13 **yes.**
 14 Q. Okay. And the 1 percent cost of living
 15 scheduled increase of 4.406 million, that was
 16 also determined not to be a part of the
 17 continuity of whatever -- what was it you said?
 18 **A. Continuity of operations.**
 19 Q. Yeah.
 20 **A. The step increase -- step -- salary step**
 21 **increase was a part of the final continuity of**
 22 **operations budget, but the 1 percent cost of**
 23 **living adjustment was not.**
 24 **Again, this was just a draft document for**
 25 **discussion.**

1 Q. How did the cost of living go from 1 -- 1
 2 percent to 3 percent?
 3 **A. Where's the 3 percent?**
 4 Q. In the final budget. Let me show you.
 5 **A. Okay.**
 6 **There's no -- there's no cost of living**
 7 **adjustment in this final budget.**
 8 Q. Down at the very bottom, continuation of
 9 fiscal year '20, mid-year three-year COLA?
 10 **A. That was the -- the previous year,**
 11 **January 2020, 3 percent COLA where we used our**
 12 **undesignated fund balance.**
 13 Q. Okay.
 14 **A. And that required an additional**
 15 **\$15 million in funding to sustain it.**
 16 Q. Okay.
 17 **A. So that was the previous fiscal year.**
 18 Q. Now, do you see the -- in the final
 19 budget where it says, "Certificated salary step
 20 increase contingent upon meeting council fund
 21 balance requirements"?
 22 **A. Yes.**
 23 Q. Okay. It's got the five -- what -- so
 24 what was the council fund balance requirement?
 25 **A. I would have to go back and look at the**

1 **actual budget ordinance, but that was language**
 2 **that was included in what the Metro Council**
 3 **approved and it required verification from the**
 4 **Metro Finance department.**
 5 Q. That the fund balance was a certain
 6 amount?
 7 **A. That the fund balance was a certain**
 8 **amount so that we could give this step**
 9 **increase.**
 10 Q. Do you know what it was on June 30 of
 11 2020?
 12 **A. I don't, I'd have to go back and look at**
 13 **the final financial reports.**
 14 Q. Was it running over 10 million, 20
 15 million?
 16 **A. It was well under the 5 percent that was**
 17 **in Metro Council policy.**
 18 Q. And would that be 5 percent of 914
 19 million or 5 percent of 948 million?
 20 **A. It would be 9 -- it would be 5 percent of**
 21 **whatever our final approved operating budget**
 22 **would be.**
 23 Q. And for this budget, would it be 933
 24 million?
 25 **A. Yes, for the --**

1 Q. Okay.
 2 **A. -- for the 2021 budget, yes.**
 3 Q. Okay. And so, 10 percent of that would
 4 be 93 million. And so then, 5 percent would be
 5 somewhere around 46, 47 million; is that
 6 correct?
 7 **A. Yes.**
 8 Q. Okay.
 9 **A. Yes.**
 10 Q. Okay. And you're saying it was under
 11 that?
 12 **A. Yes.**
 13 Q. Okay. Now, why was the certificated
 14 salary step increase contingent upon meeting
 15 the council fund balance requirements?
 16 **A. That was just how the Metro Council**
 17 **approved it.**
 18 Q. Did it come from the fund?
 19 **A. Did what come --**
 20 Q. The certificated salary step increase,
 21 did it come out of the fund balance?
 22 **A. No. The council just wanted to make sure**
 23 **that we had a fund balance that was appropriate**
 24 **before we could give this certificated and**
 25 **support salary step increase, because they were**

1 **both contingent.**
 2 Q. And they were both coming from funding
 3 from Metro Government?
 4 **A. Yes.**
 5 Q. Okay. Did you or anyone, to your
 6 knowledge, ever tell Metro Government, we've
 7 got these five jobs down here that we don't
 8 really want to get rid of, will you give us an
 9 extra million?
 10 **A. I did not.**
 11 Q. Okay. Did Metro Council tell you at any
 12 point in time \$933,652,100 is it?
 13 **A. Yes, that was what was in the final**
 14 **budget ordinance that was passed.**
 15 Q. Okay. And in that final budget ordinance
 16 that was passed, it had these five jobs being
 17 eliminated, correct?
 18 **A. Well, they just approve a total bottom**
 19 **line number, so they would approve the 933.6.**
 20 Q. Is that the amount that Metro Schools
 21 asked for?
 22 **A. We didn't necessarily ask for anything.**
 23 **It was based upon what the mayor recommended**
 24 **and what the council approved. This was the**
 25 **year that we didn't really get to go through**

1 **that process.**
 2 Q. This amount was approved by the School
 3 Board, though, correct?
 4 **A. After the Metro Council approved the**
 5 **budget, yes, once we knew what our final total**
 6 **amount would be.**
 7 Q. Okay. Now, when did you know you were
 8 going to get this property tax refund?
 9 **A. I don't remember the date. It comes to**
 10 **us from Metro Finance, what that amount's going**
 11 **to be every year, and it can go up or down.**
 12 Q. Okay. And in the May 19th budget,
 13 there's nothing in there for that, is there?
 14 **A. I don't remember, but I'd have to go**
 15 **back and --**
 16 Q. Here, this is May 19th --
 17 **A. Oh.**
 18 Q. -- I'm showing you right now. Do you see
 19 it in there?
 20 **A. When you're switching back and forth --**
 21 Q. Yeah, I know.
 22 **A. -- I'm not sure which version --**
 23 Q. Yeah.
 24 **A. -- you have. Is this --**
 25 Q. This is May 19th.

1 **A. Okay, then we knew at that point.**
 2 Q. 2020, do you see that -- do you see the
 3 Metro --
 4 MR. FOX: And, I'm sorry, could you
 5 scroll back a little so we can see the May 19th
 6 date?
 7 **THE WITNESS: It's right up here.**
 8 MR. FOX: Oh, okay.
 9 MS. STEINER: Yeah.
 10 **THE WITNESS: So we knew at that**
 11 **time -- we had received notification at that**
 12 **time from Metro Finance of what that MDHA**
 13 **transfer amount would be.**
 14 BY MS. STEINER:
 15 Q. Okay. Now, as the secretary for the
 16 School Board, what are your job duties?
 17 **A. There really aren't any. It's just a**
 18 **position title in name. My signature appears**
 19 **on all the School Board minutes.**
 20 Q. You were at all the School Board
 21 meetings, correct?
 22 **A. Most of them, almost all of them.**
 23 Q. And when this budget was presented to the
 24 School Board on May 2nd, 2020 -- was it
 25 presented on May 2nd, 2020?

1 **A. This has a May 26th date on it.**
 2 Q. May 26th, yeah.
 3 Was it presented -- was the budget
 4 presented to the School Board on May 26th,
 5 2020?
 6 **A. I'd --**
 7 Q. On May 19th?
 8 **A. I'd have to look at the agenda --**
 9 Q. Okay.
 10 **A. -- to see if it's on there.**
 11 **I don't see it on there. I see central**
 12 **office reorganization on there.**
 13 Q. Who types these notes?
 14 **A. The board office, it's a combination of**
 15 **two individuals.**
 16 Q. Who are they?
 17 **A. David Sevier and Cameo Bobo, B-O-B-O.**
 18 Q. Okay. Now, do you recognize this
 19 agenda --
 20 **A. No.**
 21 Q. -- I'm showing you right now?
 22 **A. I don't -- no.**
 23 Q. Okay. I'm going to ask you a question
 24 about this.
 25 Is that your signature?

1 **A. It's a copy of my signature, yes.**
 2 Q. And would you have put this on here?
 3 **A. No.**
 4 Q. Who put it on there?
 5 **A. It would have been the board office.**
 6 Q. Did you give them permission to put your
 7 signature on there?
 8 **A. Yes.**
 9 Q. Okay, and did you review it before you
 10 gave them permission to put your signature on
 11 there?
 12 **A. Not for sure if I reviewed these minutes**
 13 **or not.**
 14 Q. Is it your typical policy to review the
 15 minutes before you put your signature on there?
 16 **A. Not -- no. No.**
 17 Q. So then, somebody in School Board's
 18 office has the ability to put your signature on
 19 these minutes without you even seeing it?
 20 **A. Correct.**
 21 Q. Okay. How long have you all been doing
 22 that?
 23 **A. I don't know.**
 24 Q. Were you at the May 26th, 2020, School
 25 Board meeting?

1 **A. I assume so. It's rare that I miss any**
2 **board meetings, so I assume so.**

3 Q. Now, let's go down to the very bottom of
4 this.

5 Okay. Do you see this? That is called
6 Central Office Reorg Plan, and it's Bates
7 stamped MG000181 at the bottom of the page. Do
8 you see this page?

9 **A. Yes.**

10 Q. Do you know who typed this?

11 **A. I do not.**

12 Q. Do you know whether or not this was
13 presented to the School Board?

14 **A. I assume it was, since it was on the**
15 **agenda.**

16 Q. How would this be presented to the School
17 Board?

18 **A. Well, if you go back up to the agenda, I**
19 **need to look and see how it was included on the**
20 **agenda.**

21 **So it appears that it's under the consent**
22 **agenda, which wouldn't necessarily cause any**
23 **discussion to be held. The board typically**
24 **would just -- when someone pulls something off**
25 **the consent agenda for discussion, the board**

1 **approves all consent agenda items -- consent**
2 **agenda items at the same time.**

3 Q. Who makes the decision about what goes on
4 the consent agenda and what doesn't?

5 **A. It would be a combination of the board**
6 **chair and the director of schools.**

7 Q. Do you know why the reorg plan was put on
8 the consent agenda?

9 **A. I don't.**

10 Q. So then, is it possible that -- how is
11 the central office reorganization plan even
12 sent where they know what's being eliminated or
13 what's not being eliminated? How do they know
14 that?

15 **A. I assume Dr. Battle talked to each**
16 **individual School Board member individually.**

17 Q. Can you do that?

18 **A. Yeah.**

19 Q. So she would have contacted them outside
20 of the board meeting?

21 **A. Sure. She meets with them one-on-one**
22 **individually every month.**

23 Q. And tells them, I want to eliminate these
24 positions?

25 **A. I don't know what she told them.**

1 Q. Okay. Meaning, does she have the right
2 to say, I would like to eliminate these
3 positions from the central office, outside of
4 the School Board meeting?

5 **A. I would defer to Metro Legal on that.**

6 MR. FOX: Objection to the form.

7 BY MS. STEINER:

8 Q. Do you recall any information about the
9 central office reorg plan being brought up in
10 the School Board meeting?

11 **A. I don't recall, no.**

12 Q. Does this mean that this was approved on
13 May 26th, 2020, or that it was just brought in
14 front of them?

15 **A. If the board approved this consent agenda**
16 **with that item on it, then they would have**
17 **approved it, yes. And it would be reflected in**
18 **the minutes of the meeting.**

19 Q. And these are the minutes of the meeting,
20 correct?

21 **A. This is just the agenda, no.**

22 Q. The agenda, okay.

23 And then the minutes are at the next
24 meeting, correct?

25 **A. Sometimes it's more than one meeting**

1 **later. It would be at a subsequent meeting.**

2 Q. So then, the central office reorg plan
3 was submitted to the board the same time that
4 they approved the minutes from April, the same
5 time that they recommended approval of Request
6 Number 2 for large scope projects at various
7 schools; is that correct?

8 **A. All of these items that are on the**
9 **consent agenda, I'm assuming, were approved at**
10 **this meeting; again, without going back to look**
11 **at the minutes of this meeting to see if**
12 **anything was pulled for discussion.**

13 Q. And by a consent agenda, that means
14 there's just one vote, yea or nay, on all of
15 these items at the same time?

16 **A. Correct.**

17 Q. Okay, there's not, like, you've got A
18 through F, there's not six different votes?

19 **A. Correct.**

20 Q. Okay.

21 **A. And the School Board member can request**
22 **an item to be pulled from the consent agenda**
23 **for discussion and separate vote.**

24 Q. Okay. And would you agree that on this
25 consent agenda -- let's go back down here to --

1 was the central office reorg plan that's typed
2 here that's marked MG181, was that submitted to
3 the School Board?

4 **A. I assume it was under -- as part of the**
5 **agenda, yes.**

6 Q. Would it have been submitted with the
7 agenda, or could it have been submitted at a
8 different time?

9 **A. I'm assuming it's typically with the**
10 **agenda.**

11 Q. Do you have any idea why the type is
12 different than what's contained in the rest of
13 the agenda?

14 **A. Whoever wrote this up just used a**
15 **different font, apparently.**

16 Q. And do you have any idea who wrote this?

17 **A. I don't.**

18 Q. And in this vote where they voted on all
19 six of these items at the same time or seven of
20 these items at the same time, they also agreed
21 to eliminate all these positions at the same
22 time, correct?

23 **A. It appears so, yes.**

24 Q. Okay. And it says that the positions are
25 being eliminated based on budget constraints,

1 does it not?

2 **A. It does.**

3 Q. Okay. Did you read that in the budget
4 when it was being submitted in May of 2020?
5 Did you read that?

6 **A. Did I read what?**

7 Q. Where it says that they are requesting
8 board approval to eliminate the following
9 positions based on budget constraints?

10 **A. I knew that that was part of -- yeah,**
11 **part of the numerous budget reductions that**
12 **were being made, yes.**

13 Q. Did you raise your -- and was -- was
14 whoever prepared the central office reorg plan
15 and was Dr. Battle and you under an obligation
16 to be honest with the School Board that these
17 positions are being eliminated based on budget
18 constraints?

19 **A. This would be a recommendation from**
20 **Dr. Battle, yes.**

21 Q. Okay. And would you agree that it does
22 not say "reorg"?

23 **A. It says "central office reorganization**
24 **plan," yes.**

25 Q. But it says that they're eliminated based

1 on budget constraints, correct?

2 **A. Correct. These would be part of that**
3 **15.2 million that we had to cut.**

4 Q. Okay. Did you raise your hand at any
5 point or tell anybody, if you want me to find
6 this 1 million, I can?

7 **A. No. Dr. Battle told me this was what**
8 **we're going to do.**

9 Q. Okay. And that was regardless of whether
10 or not you could fund it somewhere in the
11 budget, correct?

12 **A. We didn't have that discussion.**

13 Q. Okay. So the actual decision to
14 eliminate these positions was made by
15 Dr. Battle as opposed to the School Board. The
16 School Board just kind of rubber-stamped her
17 decision, correct?

18 MR. FOX: Objection to the form.

19 **THE WITNESS: She made a**
20 **recommendation that the School Board approved,**
21 **yes.**

22 BY MS. STEINER:

23 Q. Without any discussion?

24 **A. For this particular item, unless it were**
25 **pulled from the consent agenda, this would not**

1 **have been discussed. But it very well could**
2 **have been discussed in some of our budget**
3 **meetings.**

4 Q. Okay. And it does not have the executive
5 director position on here, correct?

6 **A. It's just got the ones that are listed**
7 **here.**

8 Q. Okay. Now, if a job is repurposed, do
9 you have any sort of policy or guidelines that
10 you use to determine when a job is actually
11 repurposed versus when a job is eliminated?

12 **A. No, that would be more of a human**
13 **resources function than a finance function.**

14 Q. Okay. Let me show you this.

15 Do you see this document?

16 **A. Yes.**

17 Q. Okay. And it looks like it's the
18 August 11th, 2020, School Board meeting?

19 **A. Yes.**

20 Q. Okay. And do you see the central office
21 reorg plan --

22 **A. Yes.**

23 Q. -- down there at the bottom?

24 **A. Yes.**

25 Q. What -- what does this mean? Why is this

1 in the August 1st...

2 **A. These would be the minutes from the**
3 **May 26th meeting that the board approves as**
4 **part of the August board meeting. And from**
5 **here, it looks like central office**
6 **reorganization plan was a part of the consent**
7 **agenda and approved, voted eight to nothing.**

8 Q. Okay, and would that have been approved
9 on August 11th, 2020?

10 **A. The meetings of -- the minutes of the**
11 **May 26th meeting would have been approved on**
12 **August 11th, yes.**

13 Q. Okay. But the actual approval took --

14 **A. I'm sorry, I'm sorry.**

15 Q. The actual approval took place when?

16 **A. At the May 26th meeting.**

17 Q. Okay. Thank you.

18 MS. STEINER: Okay, I'd like the
19 May 26th minutes marked the next-numbered
20 exhibit, and I think it's Number 8. And then
21 Number 9 the August 1st, 2020, exhibit.

22 MR. FOX: No objection.

23 (WHEREUPON, documents were marked as
24 Exhibit Number 8 and Exhibit Number 9.)
25

1 BY MS. STEINER:

2 Q. So if you don't read -- you don't have to
3 read the minutes, but they can use your
4 signature on there. So then, you would be the
5 secretary for the Board of Education, but
6 you're approving the minutes without reading
7 them, correct?

8 **A. I scan them, but they're written by**
9 **other -- they're written by those that are in**
10 **the board office that I mentioned earlier, and**
11 **then also signed by the board chair.**

12 Q. And the board has the ability to use your
13 signature on there regardless of whether or not
14 they get the approval from you, correct?

15 **A. It's just understood that what they're**
16 **typing in is accurate.**

17 Q. Okay. Has anyone ever questioned you or
18 have you ever thought about whether or not you
19 may have some sort of conflict of interest if
20 you are actually the -- the chair of the
21 finance department bringing the -- presenting
22 the budget to the board?

23 **A. No.**

24 Q. Because you're asking the board for
25 approval of the budget, correct?

1 **A. Dr. Battle is, technically.**

2 Q. Okay, but you're the one typically who
3 presents it, correct?

4 **A. She has been presenting it since she has**
5 **been director of schools.**

6 Q. Okay. Were you aware of a contract that
7 was called the Firefly contract?

8 **A. No.**

9 Q. Okay. Do you recall signing that
10 contract?

11 **A. Our signatures are electronic, and I do**
12 **sign all contracts, but I don't -- we have lots**
13 **of contracts, I don't remember that one.**

14 Q. Okay. When the heads of the department
15 are trying to determine how much money they
16 need for their department, their function each
17 year, do they have something called "Defending
18 Your Budget"?

19 **A. Do they have something called "Defending**
20 **Your Budget"?**

21 Q. "Defending Your Budget" where they appear
22 in front of Barry Booker and other individuals
23 to set forth what they're going to need in
24 their function?

25 **A. There's a long process, yes, where**

1 **budgets are presented to the finance team up**
2 **the chain of command all the way up to the**
3 **chief, and then -- but ultimately, it's the**
4 **director of schools' responsibility to**
5 **determine what's going to be included.**

6 Q. Okay. Now, for school choice, were you
7 aware that Jane Doe was the director?

8 **A. Yes.**

9 Q. Okay. And did she have a job duty for
10 preparing what she thought she was going to
11 need in her department for the next year?

12 **A. In consultation with her supervisor, yes.**

13 Q. Okay. And then she would present that to
14 Barry Booker?

15 **A. She would present that to her supervisor,**
16 **and then there would be discussions with the**
17 **finance team. But again, the approval**
18 **ultimately would be Dr. Battle, the director of**
19 **schools.**

20 Q. Who was Jenai Hayes's -- Jane Doe's
21 supervisor? Was it Hank Clay?

22 **A. Yes.**

23 Q. Okay.

24 **A. I believe it was.**

25 Q. And do you recall a man whose last name

1 is Knapp?

2 **A. Kevin Knapp?**

3 Q. Yes.

4 **A. He works for Barry Booker.**

5 Q. Okay. Do you know whether or not --
6 if -- if Ms. Jane Doe was to testify that she
7 had to take her budget in front of Mr. Knapp
8 and he approved it, does that sound about
9 right?

10 **A. He wouldn't approve it, he would just**
11 **take what was given and include it in whatever**
12 **was going to be presented to the director of**
13 **schools. He --**

14 Q. Okay.

15 **A. He doesn't have the authority to approve**
16 **it.**

17 Q. And does the director of schools, is she
18 the one that has the ability to remove items
19 from that budget?

20 **A. She can.**

21 Q. Does anyone else have that ability, other
22 than the director of schools?

23 **A. Individual department heads can, but**
24 **again, ultimately it's going to flow up through**
25 **the director of schools.**

1 Q. Okay. Now, assuming that there's
2 something called a Firefly contract that was in
3 school choice where the cost was 185,000, I
4 believe, the first year, and then every year
5 thereafter 20,000, assuming that Ms. Doe said,
6 for the 2020-21 school year, we don't need this
7 in our budget because it's only 20,000 this
8 year as opposed to the 185 the year before,
9 assuming that she told Mr. Knapp that and
10 assuming that she saw Mr. Knapp put 20,000 in
11 the budget for that Firefly contract, who would
12 have had the ability to -- to move that back up
13 to 185? Would that have been Mr. Clay and
14 Dr. Battle?

15 MR. FOX: Objection to the form.

16 **THE WITNESS: Could have been a**
17 **number of people, but I assume they would be**
18 **involved or in the discussion, especially with**
19 **Hank Clay. I don't know how much Dr. Battle**
20 **would have been involved in a discussion like**
21 **that.**

22 BY MS. STEINER:

23 Q. Did you know that that Firefly cost got
24 moved from 20,000 to 185?

25 **A. No.**

1 Q. Okay.

2 MR. FOX: Objection to the form.

3 BY MS. STEINER:

4 Q. Do you know whether or not -- has anyone
5 from Metro Schools questioned you at all about,
6 how did this expense go from 20,000 to 185?

7 MR. FOX: Objection to the form.

8 **THE WITNESS: No.**

9 BY MS. STEINER:

10 Q. Okay. Would you agree that an error of
11 that nature, if -- would have been enough to
12 basically -- that additional funding from 185
13 to 20, it'd be about 165,000, would have been
14 enough to pay for Ms. Doe's position?

15 MR. FOX: Objection to the form.

16 **THE WITNESS: If that would have been**
17 **how Dr. Battle wanted to organize.**

18 **But also, as you said, Hank Clay**
19 **could have made the decision, I don't want to**
20 **reduce this line item, for whatever reason.**

21 BY MS. STEINER:

22 Q. Would you agree that if the cost they're
23 paying to Firefly is only 20,000, can you give
24 me any reason why increasing it back up to 185
25 would have been justified?

1 MR. FOX: Objection to the form.

2 **THE WITNESS: Hank Clay or others may**
3 **have had another -- something else in mind that**
4 **they wanted to spend that funding on, yes.**

5 BY MS. STEINER:

6 Q. Okay, so even though -- and did you know
7 that that department was over-funded for the
8 2020 through '21 school year?

9 **A. No.**

10 Q. Did you know that the employees in that
11 department were told, find someplace to spend
12 this money?

13 **A. No.**

14 MR. FOX: Objection to the form.

15 BY MS. STEINER:

16 Q. Have you ever known employees to be told,
17 find someplace to spend this money?

18 **A. No.**

19 Q. Is that something that's proper to have
20 occur at Metro Schools?

21 **A. Only if what they're spending the money**
22 **on was needed.**

23 Q. Have you ever heard of the employees
24 using this phrase, it's the Chris Henson
25 rainy -- rainy day fund?

1 **A. Never.**

2 Q. Okay. Do you have a rainy day fund at
3 Metro Schools?

4 **A. Typically our fund balance is called the
5 rainy day fund.**

6 Q. Okay.

7 MS. STEINER: Why don't we break for
8 just a short period and everyone go grab a
9 sandwich and then come back, and don't order
10 from -- where was it?

11 MR. FOX: We're off the record.

12 THE VIDEOGRAPHER: We are off the
13 record at 12:06 p.m.

14 (Lunch break.)

15 THE VIDEOGRAPHER: We are on the
16 record at 1:09 p.m.

17 BY MS. STEINER:

18 Q. Mr. Henson?

19 **A. Yes.**

20 Q. Just a couple more questions about this
21 fund balance.

22 How do you ask Metro Finance for
23 permission to go into the fund balance?

24 **A. There's a formal request, it's called a
25 Supplemental Appropriation, that originates**

1 **A. Metro Treasury handles all of that. We
2 don't have a separate bank account for Metro
3 Government, it's all one account.**

4 Q. Okay. And so, the operating fund, is
5 that what you pay the expenses out of?

6 **A. For the operating budget, yes.**

7 Q. Okay. And so then, it's coming out of
8 the same fund, same account as the fund balance
9 is being held at?

10 I thought fund balance was the name of an
11 account that is separate, is it?

12 **A. No. The fund balance is the fund balance
13 reserve for the General Purpose Operating Fund,
14 and that's what accumulates over time based
15 upon actuals to projections, both revenue and
16 expenditures.**

17 Q. So basically, then, there's one account
18 and it's called the operating fund account; and
19 if you don't spend the money in that, it's
20 called the reserve?

21 **A. At the end of the fiscal year, it would
22 go to the reserve account. But, of course, as
23 I mentioned earlier, the fund balance reserve
24 is also heavily affected by revenues. So it's
25 a combination of revenues and expenditures.**

1 **with the Metro Finance department. And there's
2 legislation drawn up by Metro Legal to make
3 that request of Metro Council, and it would
4 require it going through their education
5 committee, as well as their budget and finance
6 committee, before the full Metro Council would
7 consider it. But it first has to be something
8 that is recommended by the finance director's
9 office in Metro Finance.**

10 Q. Besides the fund balance -- and what is
11 this fund -- is it called the -- it's not
12 called the operating account, right?

13 **A. Which one?**

14 Q. For the fund balance.

15 **A. It's the operating account fund
16 balance -- the operating fund fund balance,
17 yes.**

18 Q. Okay.

19 **A. Sometimes it's called fund balance
20 reserve.**

21 Q. Okay. Do you have general purpose fund?

22 **A. That is the operating fund, yes. The
23 general purpose fund and the operating fund are
24 the same thing.**

25 Q. Okay. And what bank is it at?

1 Q. Okay. So then, I know nothing about
2 this, so if it sounds dumb, be patient.

3 **A. That's okay.**

4 Q. You've got two accounts; one's the
5 general operating account. And then at the end
6 of the year, whatever's left over gets turned
7 over into a reserve account?

8 **A. The reserve account is part of the
9 General Purpose Operating Fund. It's just
10 what's called the fund balance, which is --
11 some people refer to it as a rainy day fund or
12 a reserve account.**

13 Q. But it's in the same -- as far as you're
14 concerned, it's in the same place, the same
15 account as the operating fund?

16 **A. It's -- it's in the same fund, yes. It's
17 a part of the operating fund.**

18 Q. Okay. For instance, if I had \$20 in
19 savings account and I spent 5 -- if I had \$20
20 in my checking account and I spent 5 on
21 groceries, would the 5 that's left over be
22 called the fund balance?

23 **A. The 15 that's left over?**

24 Q. Yeah, 15.

25 **A. Not necessarily, because it also is**

1 affected by revenues, whether revenues come in
2 according to projections. So they're -- it's
3 both revenue and expenditure related.

4 Q. Okay. But at the end of the year and
5 you've got the amount that's going to go to the
6 fund balance, is it going to the same checking
7 account?

8 A. It's not a checking account. It's in
9 the -- when I talk about accounts, it's just in
10 the financial records.

11 Q. Okay.

12 A. It's in the same fund, not necessarily a
13 checking account or anything like that.

14 Q. Okay. So then, for the fund balance, do
15 you get a monthly account from anyone or a
16 weekly account or an hourly account or can you
17 access this on the computer to find out what
18 the balance is?

19 A. It's typically only looked at the end of
20 the fiscal year because revenues come in. So a
21 lot of -- particularly property tax revenue is
22 not actually due until February 28th, so you're
23 eight months into the fiscal year before
24 property tax revenue actually comes in. So
25 it's typically only looked at at the end of the

1 fiscal year.

2 Q. And does the different departments at
3 Metro have different fund balances; like fire
4 department has one that's separate from y'all?

5 A. No, theirs would be part of what's called
6 the Metro General Government Fund.

7 Q. Okay.

8 A. So they -- all of the Metro departments
9 would be under the Metro General Government
10 Fund, and then we have a separate fund as
11 the -- as the school system.

12 Q. Okay.

13 A. We have more than one fund, actually, but
14 what we're talking about is the General Purpose
15 Operating Fund.

16 Q. And the other funds, would that be like
17 the capital budget?

18 A. Be the Capital Fund. It would be the
19 Nutrition Services Fund, which is required to
20 be kept separately. It would be the Federal
21 Programs and Grant Fund, which is required to
22 be kept separately, as well.

23 Q. Can you go online and pull up the general
24 fund balance for Metro Schools?

25 A. The fund balance can be seen in the --

1 after the fiscal year is closed and the
2 financial reports, financial statements are put
3 together by our external auditors.

4 Q. Okay. And to take anything out of that
5 fund balance, it has to -- you have to fill out
6 a formal request?

7 A. First, it would be a -- of course, first,
8 it would be a formal request that would go to
9 the Metro Finance department.

10 And then for any finance-related
11 legislation to move forward to the council, it
12 requires the Metro Finance director to
13 recommend that. And so, basically we'd have to
14 have permission from the Metro Finance
15 department before it could even go to the Metro
16 Council for consideration.

17 Q. In the past five years, how often have
18 you made a request to take funds from the
19 general -- from the fund balance?

20 A. In the last five years?

21 Q. Yeah.

22 A. I don't remember doing that at all.

23 Q. Okay. And -- so then, for the past five
24 years, have you had balances in the general
25 operating fund that have been transferred to

1 the fund balance?

2 A. At the end of every fiscal year,
3 whatever's remaining goes to the fund balance.
4 It's in the same -- same fund.

5 Q. Do you know how much, for the 2020
6 through '21 school year, was transferred to the
7 fund balance?

8 A. I don't, but it would be in the audited
9 financial statements.

10 Q. Do you know whether or not it was a
11 million or 50 million; can you give me an idea?

12 A. Well, it would have been over a million,
13 but it was, I believe, under 5 percent. And I
14 think we just looked at, you know, 5 percent on
15 900 million would be around 45 million. So it
16 was -- it was less than that, but I just don't
17 remember the amount.

18 Q. Meaning that it was less than 45 million
19 that actually got transferred over at the end
20 of the school year?

21 A. Yeah. And it's not -- it's not a
22 transfer, it's just the remainder after
23 everything has closed, revenue and
24 expenditures, it's what's left.

25 Q. Okay. So revenue and expenditures, what

1 was left after the end of the 2020 through '21
 2 school year was somewhere around 45 million?
 3 **A. Oh, I was saying 45 million would equate**
 4 **to about a 5 percent fund balance, but we were,**
 5 **I believe, below that 5 percent fund balance**
 6 **amount. I just don't remember the amount.**
 7 Q. Okay. And do you know, for the 2019-2020
 8 school year, how much got transferred over to
 9 the fund balance?
 10 **A. I don't remember without looking at the**
 11 **financial statements.**
 12 Q. Okay. If -- supposing -- supposing you
 13 transferred 50 million 2019-2020 to the fund
 14 balance and then 50 million 2020-2021 school
 15 year to the fund balance, by my calculations,
 16 that's a hundred thousand and -- a hundred
 17 million in the fund balance; am I right or am I
 18 missing something?
 19 **A. That would -- that would be the math, but**
 20 **I know we didn't transfer that much for those**
 21 **years because that was -- the '19-20 fiscal**
 22 **year was the -- the year where revenues**
 23 **plummeted because everything closed up and**
 24 **sales tax revenue was not coming in according**
 25 **to projections.**

1 Q. Okay. Now, property taxes came in
 2 tremendous in the past year, right?
 3 **A. Not in relation to what was projected.**
 4 Q. What was projected?
 5 **A. Metro Finance projects those, and I don't**
 6 **remember the amounts.**
 7 Q. Okay. Do you recall whether or not you
 8 had had a projection that the property taxes
 9 would increase significantly when this -- in
 10 the spring of 2020?
 11 **A. For the next fiscal year?**
 12 Q. Yes.
 13 **A. I knew that -- well, at some point, we**
 14 **knew that the mayor was going to propose a**
 15 **property tax rate increase, which, of course,**
 16 **would relate -- would mean that we would be**
 17 **receiving additional property tax revenue, but**
 18 **the projection amounts were set by Metro**
 19 **Finance, not by us.**
 20 Q. And were the amounts that you were going
 21 to get somewhere around 200 million extra?
 22 **A. No.**
 23 Q. Okay. Did -- the year before the
 24 pandemic hit, for the year 2019 through 2020,
 25 did you get 230 million from property taxes?

1 **A. I'd have to look at the financial**
 2 **statements, I don't know the amounts.**
 3 Q. If Mr. Booker testified under oath that
 4 you did, would you have any reason to differ
 5 from that?
 6 **A. I would have no reason unless he were**
 7 **confusing property tax with local option sales**
 8 **tax revenue.**
 9 Q. Okay.
 10 **A. I know sales tax revenue was around 200.**
 11 Q. Okay. Now, do you live in Davidson
 12 County, by any chance?
 13 **A. No.**
 14 Q. Okay. Did you know that the property
 15 taxes here went up for many a person by almost
 16 40 percent?
 17 **A. Yeah, I think I read that the average was**
 18 **37 percent.**
 19 Q. Okay. And would you agree that that is a
 20 significant increase in income coming into
 21 Metro Government?
 22 **A. It -- yes, it would be for all of Metro**
 23 **Government, yes.**
 24 Q. And did you know that Barry Booker
 25 testified that Metro Schools got 430 -- the

1 projection was that they'd get 431 million from
 2 the property taxes?
 3 **A. I -- again, I'd have to go back and look**
 4 **at the budget ordinance.**
 5 Q. If he testified that that's what it was,
 6 would you have any reason to differ?
 7 **A. I would want to confirm it.**
 8 Q. Okay. Now, let's -- and do you recall
 9 this whole issue about the State saying that
 10 they wanted to know where Metro Government was
 11 spending the funds that had been coming in from
 12 the State because they had not provided any
 13 sort of a -- any sort of statement as to where
 14 they were spending the funding? Do you recall
 15 that happening in January of 2021?
 16 **A. No. I knew that the State comptroller**
 17 **had come and made a presentation to the Metro**
 18 **Council, but it was mainly because the budget**
 19 **was out of balance and not structured correctly**
 20 **because they were using one-time funding for**
 21 **recurring expenditures.**
 22 Q. Did you know, in the '19 through '20
 23 school year, the sales tax that Metro Schools
 24 got was somewhere around 250 million?
 25 **A. Not sure if that was the amount for**

1 **'19-20. That's the amount that's budgeted, I**
 2 **believe, for this year, which is '20 -- '21-22.**
 3 Q. Do you know that it ended up being about
 4 244 million for 2020 through 2021?
 5 **A. I think I knew that. I think that's**
 6 **close, yes, but I would want to confirm with**
 7 **the audited financial statements.**
 8 Q. So the sales tax really did not fall off
 9 that much, did it?
 10 **A. Well, that was after the pandemic. The**
 11 **2021 fiscal year was after the pandemic.**
 12 Q. Sure, but it did not fall off very --
 13 2020 through 2021 did not drop off
 14 significantly from 2019 through 2020, correct?
 15 **A. Well, the -- the Metro Council allocates**
 16 **how much of the local option sales tax is going**
 17 **to be allocated to the school district. And**
 18 **so, it's difficult to compare one year to the**
 19 **next because it doesn't necessarily mean the**
 20 **same percentage of the local option sales tax**
 21 **is going to be allocated to the school district**
 22 **year over year.**
 23 Q. I'm talking about the actual amounts you
 24 get, not what the percentage is, but like 250
 25 million versus 210 million. Is it true that

1 the actual amount that you got stayed basically
 2 about the same throughout these years?
 3 **A. Again, I would have to look at it, I**
 4 **can't remember.**
 5 Q. Okay. Hang on a second, I'm trying to
 6 find that crazy Zoom --
 7 MS. HARBISON: Right there at the
 8 bottom.
 9 MS. STEINER: There?
 10 MS. HARBISON: Yeah.
 11 MS. STEINER: Geez.
 12 BY MS. STEINER:
 13 Q. Okay. Do you see this screen? Am I
 14 sharing this with you?
 15 **A. Yes.**
 16 Q. Okay. Is this an April 23rd, 2020,
 17 e-mail that you sent to Kevin Knapp and Barry
 18 Booker?
 19 **A. Yes.**
 20 Q. Okay. And does this -- can you tell me
 21 what -- let me show you the presentation down
 22 here. Can you tell me what this is?
 23 **A. It's some kind of presentation, but I**
 24 **don't -- I don't know what it's relating to.**
 25 Q. Did you see this when you sent -- are you

1 the one that made these attachments?
 2 **A. No, I don't think so. I'd have to look**
 3 **at the e-mail thread.**
 4 Q. It says the -- the e-mail is from you,
 5 though.
 6 **A. Well, yeah, the e-mail, but it just says,**
 7 **"Thanks, let's discuss at 2 o'clock."**
 8 Q. Does it have attachments on there?
 9 **A. Well, the -- it's got the name of the**
 10 **attachments. I don't know if the attachments**
 11 **were forwarded or if that was just on the**
 12 **e-mail itself, but I -- I mean...**
 13 Q. Well, let's look at this, because this is
 14 what they gave us in terms of e-mails.
 15 **A. Okay.**
 16 Q. Do you recall receive -- seeing this
 17 chart that says COVID-19 Related Budget
 18 Reductions?
 19 **A. Yes.**
 20 Q. Okay. Then it says 50 million projected
 21 savings?
 22 **A. Yes, that was -- that was what Metro**
 23 **Finance asked us to come up with, was \$50**
 24 **million in savings.**
 25 Q. And you found that in 19 million in

1 various non-personnel districtwide spending
 2 reductions?
 3 **A. That was our estimate at the time.**
 4 Q. Okay, and that does not include firing or
 5 eliminating positions, correct?
 6 **A. Well, this was in the 2019-20 fiscal**
 7 **year, so it was before that -- that budget**
 8 **presentation for 2020-21.**
 9 Q. Let's -- that's -- this is COVID related,
 10 correct?
 11 **A. (Nodding head.)**
 12 Q. So this is sometime after March of 2020,
 13 correct?
 14 **A. Correct, but this is referencing fiscal**
 15 **year '19-20.**
 16 Q. It says that -- "to be achieved." Does
 17 that mean in the future?
 18 **A. It means the rest of the fiscal year**
 19 **since the e-mail was dated in April.**
 20 Q. Gotcha.
 21 **A. Fiscal year ends in June.**
 22 Q. Okay. So that means that from the date
 23 that you know COVID is here, sometime in
 24 February of 2020 through the end of the school
 25 year, which would be June of -- June 30th, I

1 believe, of 2020, you were able to say we're
2 going to project 50 million in savings due to
3 19 million in various non-personnel
4 districtwide spending reductions, correct?

5 **A. Correct.**

6 Q. Okay. And then 8.2 million in the
7 charter school transfer payments. So the
8 charter school, actually what you were going to
9 owe them actually went down 8.2 million for the
10 last few months of 2020, correct, of that --
11 that fiscal year?

12 **A. That was our projection based upon a
13 hundred million dollars less in sales tax
14 collections, which is what Metro Finance --**

15 Q. Okay.

16 **A. -- told us that they were projecting --**

17 Q. Okay.

18 **A. -- for '19-20.**

19 Q. And so then, you also had an 8 million
20 reduction in the Metro Housing Authority
21 transfer payment. What's that mean?

22 **A. Metro Finance notified us that the amount
23 that they would be reducing our budget for the
24 MDHA transfer would be reduced by \$8 million
25 from what they originally gave us that we**

1 **included in the -- in the 2019-20 budget.**

2 Q. Okay, but that was the -- the 8 million
3 was going to be a part of this 50 million
4 savings?

5 **A. That was our intent, yes.**

6 Q. Okay. Now, and nowhere in that
7 \$50 million savings do you state that you're
8 going to have to eliminate positions, correct?

9 **A. Correct. This is for the 2019-20 fiscal
10 year.**

11 Q. Okay. And so then, for this Number 1,
12 the 19 million and various non-personnel
13 districtwide spending reductions, that would
14 have been 19 million that would have been
15 somewhere in the 2019-2020 approved budget,
16 correct?

17 **A. Correct.**

18 Q. Okay. And then for the charter schools,
19 it sounds like to me you're going to have to --
20 you -- you can pay them 8.2 million less than
21 what you thought you were going to pay them?

22 **A. Based on the assumption that sales tax
23 revenue would come in a hundred million dollars
24 below what Metro Finance projected, because the
25 calculation for charter schools is based upon**

1 **total state and local revenue per pupil. And
2 if the local revenue were going to be a hundred
3 million dollar shortfall, then that means that
4 our payment to the charter schools, the per
5 pupil amount, is going to be less than what was
6 originally budgeted.**

7 Q. How often is that calculated, how much
8 you owe the charter schools?

9 **A. We calculate it -- well, we -- we
10 calculate it every month based upon the
11 enrollment in the charter schools every month,
12 and then we adjust -- typically, we make --
13 within state law, there are three times when we
14 can make adjustments: October, February and
15 June.**

16 Q. Okay. So then, was this reflecting a
17 February adjustment?

18 **A. I'm not sure if we took the whole
19 February adjustment or if we did some of it
20 also in June.**

21 Q. And when you got rid of these 19 million
22 in various non-personnel districtwide spending
23 reductions, did those reductions -- did any of
24 those items come back in the 2020 through '21
25 budget?

1 **A. They would be reflected on the 2020-21
2 budget, but most of them did not. Most of
3 them -- a lot of them -- well, some of them
4 were one time because we weren't in school in
5 person. And so, there were some savings
6 because we were doing a hundred percent virtual
7 education, so there were some savings related
8 to that.**

9 Q. Okay. And this 19 million, then, the
10 majority of that was not needed in the 2020
11 through '21 budget?

12 **A. I wouldn't say it's not needed. I would
13 say that I would need to look to see if we
14 added some of that back in the next year's
15 budget, but this was for this year, for the
16 '19-20 year.**

17 Q. Do you recall whether or not you did have
18 to add some of that back, or do you recall
19 the -- how much of that, like, was 10 percent
20 added back, 20 percent added back, or was the
21 majority not added back?

22 **A. I would say the majority was not added
23 back, because we were in budget-cutting mode
24 for 2020-21 where we reduced the budget by
25 15.2 million.**

1 Q. Okay. And so, the charter school, do you
2 know whether or not that ever rose back up
3 again?
4 **A. It would have been totally based upon the**
5 **total state and local revenue per pupil amount.**
6 **So whatever that state and local revenue amount**
7 **that was included in the 2020-21 budget, that's**
8 **what we would have used for that calculation,**
9 **as well as the enrollment in both the school**
10 **district as well as in all of the charter**
11 **schools. So it's -- it's got multiple factors**
12 **to it.**
13 Q. Let me show you the final budget again.
14 Let me show you the May budget.
15 **A. Okay, the May budget was not the final**
16 **budget.**
17 Q. I know. I want to show you the May 1st,
18 then we'll go back to the final one.
19 In this May budget, what is the charter
20 school amount? Is that it down at the very
21 bottom?
22 **A. That's the increase, 6,565,000 was the**
23 **increase for the 2020-21 fiscal year based upon**
24 **that calculation as required by state law.**
25 Q. Okay. And so, the increase in charter

1 schools, is that from what was budgeted for
2 charter schools for 2019 through 2020?
3 **A. It was based upon what was budgeted, yes,**
4 **in the '19-20 budget.**
5 Q. Okay. So then, if you take the '19-20
6 budget, meaning from 2019 through 2020, that
7 budget, you are asking for \$6,565,100 more for
8 charter schools?
9 **A. Yes, based on the calculation that's**
10 **required by state law.**
11 Q. Okay. And in this e-mail, you saved
12 8.2 million over what you had paid the year
13 before. What -- what had been budgeted for
14 2019 through 2020, that was the projected
15 sales -- savings?
16 **A. That was the projected savings from what**
17 **was originally budgeted in the '19-20 budget,**
18 **2019-20 budget.**
19 Q. Okay. And so then, did -- and let me
20 show you the final budget, too.
21 Okay. Here is the final budget in June.
22 You see charter schools, you've got it in there
23 8,547,000?
24 **A. Yes.**
25 Q. Is that over what was actually budgeted

1 thereto for 2019 through 2020?
2 **A. Yes.**
3 Q. Okay. So let's pull up 2019 through 2020
4 and see what was budgeted there.
5 Now, do you see this? It's called the
6 April 9th, 2019 approved by Board of Education
7 operating budget?
8 **A. Yes, but this would not be the final**
9 **budget.**
10 Q. Okay. Do you know why the final budget
11 is not published online like this budget was?
12 **A. I don't.**
13 Q. Okay. Let's just go and just look at
14 what you've got here for charter schools.
15 Okay. Do you see the required additions?
16 **A. Yes.**
17 Q. Okay. And it went up \$8,921,900?
18 **A. Yes.**
19 Q. For 2019 from the fiscal year 2018?
20 **A. Yes.**
21 Q. Okay. Do you know what the actual amount
22 is that is set aside for the charter schools?
23 If the increase is 8 million, almost 9 million,
24 what was the base that it was increasing by?
25 **A. I don't know for this year. We have a**

1 **document in the budget that would show it, but**
2 **I don't know what it would be.**
3 I know from this note, increase of
4 students, we've had years where a new charter
5 school would open; and therefore, it would
6 increase the transfer amount. Or charter
7 schools that are continuing to add an
8 additional grade, and then some years we don't
9 have as much growth in the charter sector. So
10 it's strictly based on that calculation that's
11 required by state law.
12 Q. What's that document called?
13 **A. Which one?**
14 Q. That you said shows what the base is.
15 **A. It's a part of the budget documents. I**
16 **believe it's Document Number 7 or Document**
17 **Number 8. I can't remember.**
18 Q. Is it in the final budget? Would it be
19 listed?
20 **A. Yes.**
21 Q. Where is -- is it on the back page?
22 **A. Right there it is. You just passed it.**
23 **Right there.**
24 Q. Okay, gotcha.
25 **A. No, up one, please. Right there.**

1 **So it would show the -- what -- what --**
 2 **our estimate would be that the charter amount**
 3 **would be \$146,540,300. And there's the**
 4 **increase of the current amount, and it shows**
 5 **that increase of 8,547,400, which ties back to**
 6 **that summary sheet.**

7 MR. FOX: Ann, can we site what page
 8 number so that we'll know what page we're on?

9 MS. STEINER: Yeah.

10 BY MS. STEINER:

11 Q. Is this MG000703 that you're referring
 12 to?

13 A. Me?

14 Q. Yes.

15 A. Yes.

16 Q. Okay. And so, this is a formula where
 17 you have to put down what amount was budgeted
 18 and then you put it in some formula to figure
 19 out what you've got to have in there for the
 20 next year?

21 A. Yes.

22 Q. Okay. And is there any place in that
 23 budget for not meeting the budget; meaning if
 24 it comes in lower than what you've got
 25 budgeted?

1 A. Yes.

2 Q. Okay.

3 A. **It's based upon actual numbers, and this**
 4 **is strictly an estimate in the spring before**
 5 **the fiscal year even begins.**

6 Q. And is this 146 million based on what was
 7 actually spent and does this include the -- the
 8 8.2 million in savings?

9 A. **The 8.2 million in savings would be for**
 10 **the 2019-20 budget. And was the budget that**
 11 **you were just -- we're going several different**
 12 **fiscal years, so I'm trying to keep up. The**
 13 **budget that you just shared was which year, the**
 14 **same year?**

15 Q. Hang on.

16 '19 through '20.

17 A. **The budget that you just showed me was**
 18 **'19-20?**

19 Q. Is it -- hang on a second.

20 The one I just showed you was the final
 21 budget for 2021.

22 A. **Can I see the top of that page, please?**

23 Q. Yeah.

24 A. **Thanks, just the top of the page.**

25 MR. FOX: Top of the Page 703,

1 Ms. Steiner.

2 MS. STEINER: Which one?

3 MR. FOX: Just that page, Page 703,
 4 the top of it.

5 MS. STEINER: Okay, hang on.

6 Okay, here we go.

7 **THE WITNESS: So this is for the**
 8 **'20-21 fiscal year. The slide that you**
 9 **referenced that referenced the**
 10 **eight-point-something million was for the**
 11 **previous year, the 2019-20 fiscal year. So**
 12 **that -- these are two different fiscal years.**

13 BY MS. STEINER:

14 Q. Meaning that when you decided how much
 15 you're going to need for the fiscal year 2020
 16 through '21 and you're putting it in the
 17 formula, did you use the base amount that was
 18 asked for in the original 2019-2020 budget, or
 19 did you use the amount that was actually spent
 20 that would have been this 8.2 million less?

21 A. **We -- we would not have used the '19-20**
 22 **number. We would have recalculated it for the**
 23 **2020-21 fiscal year based upon what the**
 24 **estimated total state and local revenue and the**
 25 **estimated school district enrollment and the**

1 **estimated charter school enrollment to**
 2 **recalculate it.**

3 Q. Okay. Now, Number 3, this 8 million
 4 reduction in the MDHA transfer payment, is that
 5 a payment that you're making to MDHA?

6 A. **It's a payment that Metro Finance takes**
 7 **out of our operating budget, and I don't**
 8 **necessarily know what they do with it.**

9 Q. Okay. Do you know why it was reduced?

10 A. **I assume it was reduced to help with the**
 11 **overall budget reductions that were being**
 12 **required. And so, Metro Finance, just like us,**
 13 **were looking at anything that we could find**
 14 **that would reduce how much we were going to**
 15 **spend.**

16 Q. So this is less money Metro Schools was
 17 going to have to give to Metro Government?

18 A. Yes.

19 Q. Okay. And would you keep it in the --
 20 the fund balance?

21 A. **It would be in the operating fund. And**
 22 **then ultimately, at the end -- after the fiscal**
 23 **year's closed out, then whatever is remaining**
 24 **would go to the fund balance.**

25 Q. Okay. And Metro School has never taken

1 anything out of that fund balance without the
 2 approval of Metro Finance?
 3 **A. Correct.**
 4 Q. And do you know what Metro Government --
 5 are they limited at all in what they can use
 6 the fund balance for, whether it be Metro
 7 Schools or the fire department or the police
 8 department?
 9 **A. It -- it would be whatever the Metro**
 10 **Council approves. So if the Metro Council**
 11 **doesn't approve it, then it won't happen.**
 12 Q. Okay. Now, are you the one that's in
 13 charge of discipline in your department in
 14 finance, if you have a problem with a worker?
 15 **A. I would work with human resources on**
 16 **anything like that.**
 17 Q. Is it your understanding that if you have
 18 a problem with someone, that you need to
 19 confront the employee and tell them what
 20 they're doing wrong -- wrong in the hopes that
 21 they improve in the future?
 22 **A. Yes.**
 23 Q. Okay. And is that what you've been
 24 trained to do by Metro human resources?
 25 **A. Yes.**

1 Q. Okay. Do you keep a documentation of --
 2 of any issue that you're having with a
 3 particular employee so you can remember six
 4 months down the road to see whether or not
 5 they've improved or not?
 6 **A. I would, yes.**
 7 Q. And does Metro human resources tell you,
 8 document everything related to job performance?
 9 **A. Yes.**
 10 Q. Okay. And -- and do you also have the
 11 ability, if the problem persists, to either
 12 suspend the worker, write them up or to -- any
 13 other type discipline? Do you have the ability
 14 to do that?
 15 **A. Working with Metro human resources -- or**
 16 **MNPS human resources and employee relations,**
 17 **yes.**
 18 Q. Okay.
 19 Do you know whether or not there's any
 20 particular policy at Metro for a reduction in
 21 forces?
 22 **A. I think there's a policy and I think**
 23 **there's a state law.**
 24 Q. And is the state law for eliminating
 25 positions, that the School Board needs to be

1 able to eliminate them?
 2 MR. FOX: Objection to form.
 3 BY MS. STEINER:
 4 Q. Is that what you're talking about?
 5 **A. I don't know enough about it to be able**
 6 **to speak to it. I just know there's something**
 7 **in state law where they do reduction in force.**
 8 Q. Now, when you said earlier that it was
 9 Dr. Battle's first year, actually it was more
 10 akin to, like, her first month as the -- the
 11 director of schools, because she was the
 12 interim before that, correct?
 13 **A. Yeah. I think she was the interim**
 14 **starting in April of 2019, so she would have**
 15 **been in that position for a year or so, but she**
 16 **would not have been really involved in putting**
 17 **together the 2019-20 budget.**
 18 Q. Okay. And she became director of schools
 19 sometime, when was it, like in March of 2020?
 20 **A. I believe so. I believe it was right**
 21 **after the tornado.**
 22 Q. Did anyone tell you or did you hear
 23 anyone make any comments that Dr. Battle was
 24 getting rid of the associate superintendent
 25 positions because she wanted to work with

1 particular people?
 2 **A. No.**
 3 Q. Did Dr. Battle ever ask you any questions
 4 about Lily Leffler and whether or not you
 5 thought she was loyal to Metro Schools because
 6 of her relative, Vanessa Garcia?
 7 **A. No.**
 8 Q. If she had asked you that, what would you
 9 have told her?
 10 MR. FOX: Objection to the form.
 11 **THE WITNESS: I don't know what I**
 12 **would have told her.**
 13 BY MS. STEINER:
 14 Q. Hang on one second.
 15 Okay. Let me see if I can share this
 16 with you. And I'm almost at the end.
 17 Okay, do you see this?
 18 **A. Yes.**
 19 Q. Okay. Is it a News Channel 4 article
 20 that says Metro Teacher Staff to Receive 3
 21 Percent Cost of Living Raise on January 1st?
 22 **A. Yes.**
 23 Q. Okay. Do you see where it says, "In
 24 2020, the 7.5 million of funding required for
 25 the adjustment will be sourced from excess MSPS

1 fund balance"? Do you see that?

2 **A. I see that that's written that way, yes.**

3 Q. "Of which, 2.5 million will come from
4 MDHA," do you see that?

5 **A. Yes.**

6 Q. Okay. So did the funding for this
7 7.5 million come from the fund balance?

8 **A. Yes. This was the January 1 mid-year 3
9 percent raise that we talked about earlier
10 that -- that I said was funded from our fund
11 balance.**

12 Q. Okay, and 2.5 million came from MDHA; is
13 that true?

14 **A. I'm not sure what that references.**

15 Q. Let me -- let's see if this works. Can
16 you hear it?

17 **A. Uh-huh.**

18 Q. Okay, hang on a second.

19 (WHEREUPON, a video was played.)

20 MS. STEINER: Okay, let's stop that.

21 BY MS. STEINER:

22 Q. Now, did you -- did you -- I want to ask
23 you a couple questions about it. Did you hear
24 where they said that it was excess school funds
25 in the school savings? Did they mean that that

1 balance to pay for these 3 percent cost of
2 living increase?

3 **A. I'm sure it exists in the Metro Council
4 minutes, yes.**

5 Q. But there's actually a form that Metro
6 Schools submitted --

7 **A. There's --**

8 Q. -- requesting this?

9 **A. -- a form that -- that Metro Finance -- I
10 think in this case, they completed it because
11 it was Mayor Cooper's idea to fund it this way.
12 So I think they completed the form, and then
13 Metro Legal put together the legislation that
14 would go to the Metro Council for approval.**

15 Q. Okay. Was the maintenance of effort
16 lower for 2020-21 than it was for 2019-2020?

17 **A. What do you mean by "maintenance of
18 effort"?**

19 Q. Are you familiar with that term,
20 "maintenance of effort"?

21 **A. I'm familiar with the law.**

22 Q. Okay. And is there a certain amount that
23 is budgeted for maintenance of effort?

24 **A. It's not budgeted for maintenance of
25 effort. The maintenance of effort law requires**

1 money had been saved for -- during the period
2 of 2019 through 2020?

3 **A. First of all, I'll say that not all of
4 the information that's shared by the news media
5 is accurate.**

6 Q. Okay. What was not accurate about that?

7 **A. Well, the 7.5 million came from our fund
8 balance, which is also our reserve, but the
9 reporter said that it was coming from fund
10 balance but not the reserve. Fund balance and
11 reserve are one and the same.**

12 Q. Did you hear where she said that there
13 were savings in Metro Schools?

14 **A. That's the way that -- that Metro Finance
15 and the mayor's office categorized our fund
16 balance, as savings, and it would be savings
17 over time.**

18 Q. Okay. The 5 million in savings, was that
19 referring to savings that had occurred in the
20 2019-2020 school year?

21 **A. It would have occurred in many prior
22 fiscal years. It's just the accumulation of
23 what our fund balance was.**

24 Q. Okay. Now, do you have the documentation
25 where -- that was request to go into the fund

1 **funding bodies, which in our case would be the
2 Metro Council, to budget at least the same
3 amount of local revenue as they did in the
4 prior year so that they can't just reduce our
5 budgeted local funding from year to year.**

6 MS. STEINER: Okay. That is all from
7 me. Thank you.

8 **THE WITNESS: Thank you.**

9 (An off-the-record discussion was
10 held.)

11 MS. HARBISON: And, Ann, can you make
12 me the host again?

13 MS. STEINER: Yeah.

14 MS. HARBISON: Thank you.

15 MS. STEINER: Well, where is it?

16 MS. HARBISON: We -- I mean, we can
17 take a quick break...

18 MS. STEINER: Here we go.

19 MS. HARBISON: Oh, you've got it?

20 Okay.

21 MS. STEINER: Yeah.

22 MS. HARBISON: Yeah. If you click on
23 mine, yeah, and then make host. Yeah. Thank
24 you.

25

EXAMINATION

QUESTIONS BY MS. HARBISON:

Q. Okay. Mr. Henson, are you good to proceed or do you need a break?

A. I'm good if everyone else is.

Q. Okay.

A. Thank you for asking.

Q. My name is Jesse Harbison. I represent Dr. Damon Cathey in this case.

Do you know Dr. Cathey?

A. Yes.

Q. Okay. How long have you known Dr. Cathey?

A. I've known -- 15 years, maybe longer.

Q. You -- you've both worked at Metro for some time, correct?

A. Yes.

Q. Does -- what is Dr. Cathey's reputation at Metro, to the best of your knowledge?

A. Well, he obviously was thought of well enough to become an associate superintendent.

When I first met him, he was, I think, a principal, and then he went to work at another organization for a while and then came back. But, you know, my impression of Dr. Cathey is

positive.

Q. So to the best of your knowledge, he performed his job duties competently while employed by Metro?

A. Well, of course, I didn't supervise his work, but from what I -- from what I knew, yes.

Q. Okay. Did he have a reputation for being honest?

A. As far as I knew, yes.

Q. Okay. Are you aware of any disciplinary actions against Dr. Cathey?

A. I'm not aware, but I don't know that I would even know.

Q. Okay. Were you aware that Dr. Cathey reported some grade falsifications at Stratford High School?

A. Seems like there was something that was discussed about some -- some grading issues, but I can't remember the details. I don't remember which school or what was involved. That's not my area.

Q. Do you remember who you discussed that with?

A. No, I think it was during maybe a cabinet meeting, but I really don't -- don't know.

Q. Were you aware that after Coach Battle was involved in the fight, that Dr. -- that we discussed earlier, that Dr. Cathey called Dr. Battle to discuss how serious he thought that incident was?

A. No.

Q. Okay. Were you aware that Dr. Battle asked Dr. Cathey if he thought that Lily Leffler was loyal to Metro because her relative had sued Metro?

A. No.

Q. Okay. So you would not also be aware, then, that Dr. Battle told -- stood up for Dr. Leffler during those conversations?

MR. FOX: Objection to form.

THE WITNESS: I was not aware.

BY MS. HARBISON:

Q. Okay.

I want to share my screen with you. Let me get to the right document first.

Let me know when you can see my screen.

MR. FOX: We can see it.

BY MS. HARBISON:

Q. Okay. Are you familiar with this document?

A. I think so. It looks like the presentation that the mayor would make or the finance director would make to Metro Council.

Q. Okay.

A. I think.

Q. And this is dated -- it's called the Metropolitan Government of Nashville and Davidson County Fiscal Year 2022 Operating Budget, correct?

A. Correct.

Q. And it looks to be dated July 2021, correct?

A. That's the date on here, which the presentation of the council would have been earlier than that, so that's why I'm not real sure.

Q. Okay. I'm going to show you a couple of pages on here. And I will zoom in so you can see.

A. Okay.

Q. So this section, and we're on Page 27 of this PDF, if you can see at the bottom, it's labeled A10, but it's Page 27 of 716 pages.

A. Okay.

Q. And we're looking at a section that is --

1 the heading is labeled Property Reappraisal; do
2 you see that?

3 **A. Yes.**

4 Q. Okay. And do you see below that, there's
5 an orange box that says Property Taxes above
6 it?

7 **A. Yes.**

8 Q. Okay. And it looks like in there,
9 property tax budget for fiscal year '21 was --
10 is that 1.4 billion or 1 --

11 **A. (Nodding head.)**

12 Q. Okay.

13 **A. That's what it -- that's what it looks
14 like.**

15 Q. And would that sound right to you,
16 1.4 billion?

17 **A. I assume so.**

18 Q. Okay. And -- but -- and then for fiscal
19 year 2022, assuming that the line above that is
20 1.4 billion, it's 1.5 billion, correct?

21 **A. Correct.**

22 Q. And it shows a change, an increase of
23 four point -- 47.8 million, correct?

24 **A. Correct.**

25 Q. And do you see over to the side where it

1 So it looks like to me where the text
2 next to the orange box, it says that it's a
3 better than anticipated projected collection,
4 that that would be an actual number, correct,
5 because it's a collection?

6 **A. I'm not sure. I think what it's saying
7 is fiscal year '22's projected increase is a
8 combination of better than anticipated
9 projected collections during '21 and the
10 continued boon.**

11 I would want to -- to me, I know that
12 the -- part of the projecting is based upon
13 what was actually received, as far as setting
14 the tax rate. And since this was a reappraisal
15 year, that becomes very complex, because I
16 think it said up above you -- you can't -- you
17 can't have additional property tax revenue just
18 because you go through a reappraisal. It must
19 be revenue neutral. That's in the top line.

20 Q. But this says here that it's -- the
21 projected increase is a combination of better
22 than anticipated projected collections during
23 fiscal year '21, correct?

24 **A. Correct, which went in -- I think went
25 into play as far as what the new rate would be.**

1 says, "Fiscal year 2022's projected increase is
2 a combination of better than anticipated
3 projected collections during fiscal year 2021
4 and the continued boon of new construction
5 throughout the city," correct?

6 **A. Correct.**

7 Q. Okay. So based on this, it looks like
8 they collected more on property taxes than they
9 anticipated, correct?

10 **A. Are these actual figures or comparing
11 budget to budget?**

12 Q. Well, if you read above that orange
13 line -- or that orange box that we're looking
14 at, it says, "The assessor's office conducts a
15 property reappraisal every four years under
16 Tennessee state law, with fiscal year 2022
17 serving as the most recent. The reappraisal
18 estimates the value of all property in Davidson
19 County. This performed periodically adjusts
20 recorded property assessments to generally
21 reflect market value."

22 And then if you read the last sentence,
23 it says, "Due to this appreciation, fiscal year
24 2020's rate would decrease considerably,
25 falling to 3.288."

1 Q. Okay, but this is discussing collections.

2 **A. Right.**

3 Q. Okay. So that would have been what they
4 actually collected, correct?

5 **A. You know --**

6 Q. How do you know if it's going to be a
7 better collection if the collection hasn't
8 happened yet?

9 **A. Right, but I -- I'm just not familiar
10 with this document.**

11 Q. Okay.

12 **A. But -- I'm not -- I'm not sure.**

13 Q. Okay. And then I'm going to show you
14 another part of this that's on Page 29. Do you
15 see where -- and -- and for the record, this is
16 marked as A12, but it's Page 29 of the PDF.

17 Do you see at the top, there's a heading
18 that says Local Option Sales Tax?

19 **A. Yes.**

20 Q. Okay. And do you see the text next to
21 that orange box, and it says, "At the onset of
22 the pandemic, the general consensus among
23 economists apparent to us pointed them to a
24 prolonged recovery, one marred with concerns
25 over virus containment and vaccine development.

1 Many factors contributed to a quicker than
2 expected recovery; chief among them, record
3 federal stimulus, vaccine deployment and
4 consumption shifts. Fiscal year 2022's budget
5 assumes continued source stability rather than
6 the run of impressive pre-pandemic growth."

7 Do you see that?

8 **A. Yes.**

9 Q. Okay. And do you see that it's showing a
10 positive change of a hundred -- of
11 \$102.5 million for fiscal year 2022 over 2021?

12 **A. For fiscal year 2022's budget, yes.**

13 Q. Okay. And that for fiscal year '21, it
14 shows 3.52 -- or, excuse me, 352.1 million in
15 local option sales tax, correct?

16 **A. Correct.**

17 MS. HARBISON: Okay, I'm going to
18 make that the next-numbered exhibit, just --
19 and what I'm going to do is just the cover page
20 and then these two pages.

21 (WHEREUPON, a document was marked as
22 Exhibit Number 10.)

23 BY MS. HARBISON:

24 Q. So Metro -- part of Metro's funding is
25 from the local options sales tax, correct?

1 when you've had a chance to read it and then
2 I'll scroll on, and then you can tell me if you
3 remember it or not.

4 **A. (Witness viewing document.)**

5 **Okay.**

6 Q. Okay. Do you need to keep reading it to
7 decide if you remember it?

8 **A. If you're -- well, if you're ask -- are
9 you going to ask me about specific parts of it?**

10 Q. I am. Why don't you just keep reading
11 it?

12 **A. Okay. (Witness viewing document.)**

13 **Okay. (Witness viewing document.)**

14 **Okay.**

15 Q. And that's the end, correct?

16 **A. Correct.**

17 Q. Do you remember sending this e-mail?

18 **A. I remember the e-mail being constructed
19 and then my name being the one that would send
20 it, yes.**

21 Q. Okay. Who constructed it?

22 **A. I think it was a joint effort involving
23 communications, et cetera. This was going to
24 be placed in our newsletter that goes out to
25 all employees. And so, there were several that**

1 **A. Correct.**

2 Q. And from the property tax, correct?

3 **A. Correct.**

4 Q. Okay. I'm going to share my screen with
5 you again.

6 All right, let me know when you can see
7 that.

8 **A. I can.**

9 Q. Okay. This appears to be an e-mail from
10 you to Dr. Battle, correct?

11 **A. Correct.**

12 Q. Have you seen this e-mail before? And
13 let me know if you want me to scroll through so
14 you can review it.

15 **A. If you could.**

16 Q. Yeah.

17 **A. I don't know what e-mails might have been
18 before or after this -- this is referring to a
19 memo.**

20 Q. Hmm, so this is it.

21 **A. Okay.**

22 Q. Yeah, there's nothing before or after.

23 **A. Okay.**

24 Q. And let me know -- why don't you just
25 take a second and read that, and let me know

1 **reviewed it and worked on it.**

2 Q. And do you know if it was sent out to
3 employees?

4 **A. Pretty sure it was.**

5 Q. Okay. Do you see on the second page of
6 this PDF, under -- do you see the heading that
7 says Fiscal Year 2020-21?

8 **A. Yes.**

9 Q. Okay. And do you see where it says,
10 "Mayor John Cooper called in his State of Metro
11 Address for a significant increase in the
12 property tax next year. This will help
13 alleviate some of the revenue shortfalls
14 associated with the COVID shutdown, but we do
15 not yet know how it will directly impact Metro
16 Nashville Public Schools"? Do you see where it
17 says that?

18 **A. Yes.**

19 Q. Okay. And this e-mail was sent on
20 April 2nd, 2020, correct?

21 **A. Yes.**

22 Q. Okay. So you knew about the proposed
23 property tax increase at least as early as that
24 date, correct?

25 **A. Yeah, I think the mayor had made that**

1 **public -- I'm sure he would have made that**
 2 **public before this would have been sent;**
 3 **otherwise, I would not have included it.**
 4 Q. Did you know about it before it became
 5 public?
 6 **A. I don't know if I did or not.**
 7 Q. Who do you normally interface with in the
 8 mayor's office; is that Talia or someone else?
 9 **A. Talia's in the finance department.**
 10 Q. Okay.
 11 **A. And she probably would have been the one**
 12 **that I would have interfaced with most at this**
 13 **time.**
 14 Q. Okay. Do you -- is it unusual for you to
 15 receive information, such as a proposed
 16 property tax increase, before the public might
 17 receive it?
 18 **A. Yeah, probably would be unusual for me to**
 19 **receive that.**
 20 Q. So you don't remember whether or not you
 21 knew about this before this e-mail was sent,
 22 correct?
 23 **A. Well, I think I would have known before**
 24 **this e-mail was sent because I -- I wouldn't**
 25 **have put it in -- in the letter.**

1 **Obviously, we -- we knew that that was**
 2 **something that had been put out into the**
 3 **public. I just don't remember the timing.**
 4 Q. Well, let me ask it this way: Did you
 5 know about it before the State of Metro Address
 6 referenced in this e-mail?
 7 **A. I don't know when the State of Metro**
 8 **Address -- was it before or after this; do you**
 9 **know?**
 10 Q. I don't.
 11 **A. Typically -- well, I -- I don't.**
 12 Q. Okay.
 13 **A. I don't.**
 14 Q. Okay.
 15 MS. HARBISON: I'm going make this
 16 the next-numbered exhibit, please.
 17 (WHEREUPON, a document was marked as
 18 Exhibit Number 11.)
 19 MR. FOX: No objection.
 20
 21 BY MS. HARBISON:
 22 Q. And let me just make sure that I
 23 understand your answer to my last question.
 24 You do not remember if you knew about the
 25 property tax increase before the Metro --

1 before the mayor's State of Metro Address?
 2 **A. And -- and I could be wrong, but I think**
 3 **the mayor publicly announced the proposed**
 4 **property tax increase before his State of Metro**
 5 **Address.**
 6 Q. Okay. Do you remember if you knew about
 7 it before he publicly announced it?
 8 **A. I don't -- I don't know if I did or not.**
 9 **It may have been --**
 10 Q. Okay.
 11 **A. -- something that was shared with -- with**
 12 **someone on our team and shared with me, but I**
 13 **don't remember the timing of it.**
 14 Q. Okay. I'm going to show you another
 15 document.
 16 Let me know when you can see my screen.
 17 **A. I can.**
 18 Q. Okay. This appears to be an e-mail from
 19 you to Talia Lomax. Is her last name Lomax
 20 O'dneal?
 21 **A. Do you know?**
 22 Q. It's what you know.
 23 **A. I just say Lomax.**
 24 Q. Okay. Is it okay with you if, for the
 25 purposes of this deposition, I refer to her as

1 Talia Lomax?
 2 **A. Yes.**
 3 Q. And we can agree that when I say Talia
 4 Lomax, I'm referring to someone who may also be
 5 known as Talia Lomax O'dneal?
 6 **A. Yes.**
 7 Q. Okay. This e-mail was sent, it appears,
 8 on April 22nd, 2020, correct?
 9 **A. Correct.**
 10 Q. Okay. And in this e-mail, you -- well,
 11 you also sent it to Rose Wood. Who is that?
 12 **A. She's in the Metro Finance department.**
 13 Q. Okay. And it looks like you CC'd Hank
 14 Clay, Barry Booker, Brian Hull, Kevin Knapp and
 15 Dr. Battle, correct?
 16 **A. Correct.**
 17 Q. Okay. And do you see where you said,
 18 "Thanks for sharing. This document appears to
 19 meet the TDOE maintenance for effort
 20 requirement for total budgeted local revenues"?
 21 **A. Yes.**
 22 Q. Okay, what is the TDOE maintenance of
 23 effort -- effort requirement? I know we
 24 touched on that a little bit earlier.
 25 **A. Sure. The TDOE maintenance of effort**

1 requirement is that your -- your funding body,
2 which for us would be the Metro Council, the
3 funding body must budget at least the same
4 amount of local revenue next year as they
5 budgeted in the current year, which means that
6 they can't just arbitrarily decide to reduce
7 the amount of budgeted local revenue.

8 Q. Okay.

9 A. And that's the maintenance of effort
10 requirement that's in state law, that the
11 Tennessee Department of Education will check
12 every school district's budget to make sure
13 it's meeting that requirement.

14 Q. Okay. And it looks -- well, let me ask
15 this: Do you recall sending this e-mail?

16 A. I do now.

17 Q. Okay. And it looks to be that you're
18 responding to a document that Talia sent,
19 correct?

20 A. Correct.

21 Q. Okay. And I'm going to pull this up, but
22 do you see where, in the e-mail that she sent,
23 it -- the subject is "draft document for
24 discussion"?

25 A. Yes.

1 Q. Okay. And then the way that Metro
2 produced these e-mails to us, there were a lot
3 of PDFs, but then if there was an attachment
4 sometimes it was produced natively the way that
5 it says on here, so I'm going to pull up the
6 document that corresponds with this page, okay,
7 but it was produced in its native format.

8 A. Okay.

9 Q. Okay.
10 Okay, can you see my screen?

11 A. Yes.

12 Q. And I can probably make that a little
13 bigger if that would help you.

14 A. That would.

15 Q. Okay. Can you see the title of the
16 document?

17 A. Yes.

18 Q. And do you see that it's titled Schools
19 E-mails 0025347?

20 A. Yes.

21 Q. Okay. So this would have been the
22 attachment that Talia sent you in that e-mail
23 that we were just looking at, correct?

24 A. Correct.

25 Q. Okay. So this is the e-mail that you

1 were saying shows a satisfaction of the
2 maintenance of effort requirements, correct?

3 A. Correct.

4 Q. Okay. So it looks like the property tax
5 budgeted for 2020 to 2021 was somewhere in the
6 range of \$420.2 million, correct?

7 A. Correct.

8 Q. And this also shows that in the amended
9 budget, that would have been somewhere around
10 \$326.8 million, correct?

11 A. For the prior year, correct.

12 Q. Okay. So in the last column that shows
13 2021 budget versus 2020 budget, it's an
14 increase of about \$93.4 million?

15 A. For that line item, yes.

16 Q. Okay. And then for the local option
17 sales tax for the 2020-2021 year, it's
18 somewhere around 176 million, correct?

19 A. Correct.

20 Q. And then the prior budgeted year is
21 somewhere around 261.1 million, correct?

22 A. Correct.

23 Q. And so, in the last column that's
24 comparing the 2021 budget versus the 2020
25 budget, that shows a decrease of around 85

1 million, correct?

2 A. Correct.

3 Q. So the estimated property tax change was
4 actually greater than the de- -- estimated
5 decrease for the sales tax, correct?

6 A. Correct.

7 Q. Okay.

8 MS. HARBISON: I'm going to make that
9 e-mail and the Excel spreadsheet the
10 next-numbered exhibit.

11 MR. FOX: What number is that?

12 THE REPORTER: 12.

13 MS. HARBISON: Okay.

14 (WHEREUPON, a document was marked as
15 Exhibit Number 12.)

16 BY MS. HARBISON:

17 Q. I have a question, also. I'm going to
18 share my screen with you again.

19 Can you see my screen?

20 A. Yes.

21 Q. Okay. Earlier, when we were talking
22 about the final budget -- and I can pull that
23 up and -- and show it to you if it would help
24 refresh your recollection. There's a line item
25 for IT moving operating expenses to capital

1 expenses. I think sometimes people say op X to
2 cap X; is that right?

3 **A. Yes.**

4 Q. Okay. I'm an English girl, not a finance
5 girl, so you'll have to bear with me.

6 And then there was another line item, I
7 think, for maintenance, grounds maintenance,
8 same thing, moving some expenditures from
9 capital expenses to operating expenses?

10 **A. It wasn't grounds maintenance, it was
11 just maintenance.**

12 Q. Maintenance, okay.

13 Explain that to me like I'm five, okay?
14 What does that mean?

15 **A. Just the concept?**

16 Q. Yes.

17 **A. So we've got several different funds.
18 The first would be the largest, the General
19 Purpose Operating Fund. And that's typically
20 for more of your day-to-day types of activities
21 that -- that occur.**

22 **We also have a Capital Fund where the
23 Metro Council, at the mayor's recommendation,
24 will approve a capital funding amount for
25 schools as well as other departments. And it's**

1 **mainly for larger types of purchases, larger
2 equipment types of purchases and things of that
3 nature.**

4 **There's not a fast and true definition of
5 what would go into the General Purpose
6 Operating Fund and what would go into the
7 Capital Fund. And so, what I asked both the IT
8 department as well as the maintenance
9 department to do would be to go through and
10 identify anything that could be considered a
11 capital expenditure, so it would be a larger
12 dollar type item, even if it had been budgeted
13 in the operating budget in the past, as part of
14 our budget reduction exercise so that we could
15 move some of those expenses over to the capital
16 budget, fund them there, realizing that
17 whatever was already going to be spent on the
18 capital budget won't be able to do everything
19 because some of it's going to be for these
20 items that previously had been funded in the
21 operating budget.**

22 **And that was all an exercise to get down
23 to -- to make the budget reductions to get down
24 to the amount that the Metro Council approved.**

25 Q. Okay. So I'm going to show you -- scroll

1 down in this e-mail a little bit and show you
2 the first e-mail in this thread, okay?

3 **A. Okay.**

4 Q. This is from Kevin -- is it Knapp?

5 **A. Yes.**

6 Q. And I think we established earlier he's
7 an accountant for MNPS, correct?

8 **A. Correct.**

9 Q. Okay. And he sent it to Kenneth Stark,
10 Lance Lott, Doug Renfro, Michael Lee, David
11 Proffitt and Louis Burnett, correct?

12 **A. Correct.**

13 Q. And you're CC'd on this e-mail, correct?

14 **A. Correct.**

15 Q. Did you tell Kevin to send this e-mail?

16 **A. I don't know if I told him to send it.
17 We discussed it, and I don't know that I told
18 him to send this e-mail exactly, but it was a
19 way to -- for us to get to what can be --
20 what's a possibility to -- to move over to the
21 capital budget that had previously been funded
22 in the operating budget.**

23 Q. Who is Michael Lee?

24 **A. He's over transportation.**

25 Q. Okay. There was no line item in the

1 final budget moving transportation -- moving
2 anything for transportation from operating
3 expenses to capital expenses, correct?

4 **A. Correct.**

5 Q. Why not?

6 **A. They didn't really have the type of
7 expenses that would qualify for capital.
8 School buses are already purchased out of the
9 capital budget. And so, a lot of what they
10 have would be either staff or would be just
11 maintenance and repairs on school buses that
12 wouldn't rise to the level of being a
13 capital-type expenditure.**

14 Q. Did you have a conversation with Michael
15 Lee about that?

16 **A. I probably had a conversation with Ken
17 Stark, who Michael Lee reports to, about that.**

18 Q. Okay. And did you do anything to ensure
19 that Michael Lee did everything he could to
20 determine if anything could be moved from the
21 operating expenses to the capital expenses?

22 **A. Yeah, I -- our team reviewed the
23 expenditures to date and historical for the
24 transportation department to see if there was
25 anything out there, and they didn't come up**

1 with anything.
 2 Q. Okay. And who was your team?
 3 **A. Would be Barry and Kevin working with Ken**
 4 **and Michael and maybe somebody -- somebody else**
 5 **in the transportation department.**
 6 Q. And would that have been documented
 7 anywhere?
 8 **A. Probably not.**
 9 Q. Okay. Who is Doug Renfro?
 10 **A. He's over IT.**
 11 Q. Okay. Does -- is he also over learning
 12 technology and library services?
 13 **A. Yes.**
 14 **And -- and my mistake, Lance Lott was**
 15 **over IT.**
 16 Q. Okay.
 17 **A. Doug was over instructional technology.**
 18 **We ended up consolidating the two to make one**
 19 **IT department. That's the reason I said Doug**
 20 **was over IT. But Lance and Doug were both over**
 21 **IT, but just different parts of the IT**
 22 **function.**
 23 Q. Okay. And you said Doug's title --
 24 sorry, tell me that again. It was over
 25 instructional --

1 **A. I think it was what -- what you said.**
 2 Q. Learning technology and library services?
 3 **A. Yes, he was the director of that.**
 4 Q. Okay. There was no line item in the
 5 final budget showing any operating expenses
 6 moved to capital expenses for library -- or for
 7 learning technology and library services,
 8 correct?
 9 **A. Correct.**
 10 Q. Okay. What did you do to ensure that
 11 Doug -- if anything, that Doug Renfro combed
 12 through the budget for his department to
 13 determine if anything could be moved from
 14 operating expenses to capital expenses?
 15 **A. It -- it was the same thing we did with**
 16 **transportation. It was scanning through**
 17 **expenditures.**
 18 **His department is -- was fairly small and**
 19 **mainly made up of staff members, so there**
 20 **wasn't a lot of non-personnel items to even**
 21 **review.**
 22 Q. Okay. Same question as for the
 23 transportation services department, would that
 24 be documented anywhere, that review?
 25 **A. Probably not. It probably was just going**

1 **through the expenditures and having the**
 2 **discussions but not necessarily documenting it.**
 3 Q. Okay. So you said at this time Lance was
 4 over IT. We've talked about Doug. We've
 5 talked about Michael Lee.
 6 David Proffitt was over facilities
 7 maintenance and construction, correct?
 8 **A. Correct.**
 9 Q. And then, who is Louis Burnett?
 10 **A. He's over maintenance. He reports to**
 11 **David Proffitt.**
 12 Q. Okay. Tell me if I'm getting this wrong,
 13 okay? You said that you heard, I think from
 14 Hank Clay, that those five positions were going
 15 to be -- needed to be accounted for in the
 16 budget, correct?
 17 **A. I heard from him regarding what some of**
 18 **the different changes were going to be as far**
 19 **as positions and who was going to be in those**
 20 **positions, et cetera.**
 21 **And then eventually, after that, we**
 22 **needed to put that into the budget, so I'm sure**
 23 **there was discussion regarding what -- what the**
 24 **net effect of that would be to the budget.**
 25 Q. Okay. I think earlier -- and I will show

1 this to you.
 2 Earlier, we were looking at this budget,
 3 which is dated -- and let me zoom in here a
 4 little bit -- March 23rd, 2020? Have we looked
 5 at this today?
 6 **A. I'm not sure. This would have been a**
 7 **very early draft.**
 8 Q. Sure.
 9 And it's titled Fiscal Year 2020-2021
 10 Operating Budget Draft Number 1, right?
 11 **A. Uh-huh.**
 12 Q. And this is Bates labeled MG574 through
 13 613. And at the top, it says Draft March 23rd,
 14 2020, correct?
 15 **A. Correct.**
 16 Q. So in here, I don't see any -- these are
 17 employee compensation and required additions.
 18 And then, there's nothing for total proposed
 19 changes, correct?
 20 **A. Correct. This was still looking at what**
 21 **we had to have to move forward next year at the**
 22 **same level of service without any --**
 23 Q. Okay.
 24 **A. -- additions or reductions otherwise.**
 25 Q. If there -- if you had known about those

1 five positions, would it have been accounted --
2 as of this date, as of March 23rd, 2020, would
3 it have been accounted for in this budget?

4 **A. It depends on where we would -- would**
5 **have been during the discussion. If we were**
6 **only looking to determine, you know, what do we**
7 **have to have as a baseline amount, continuity**
8 **of operations to move forward, if that was the**
9 **purpose of putting this together, then it would**
10 **not have.**

11 **But if it -- if it were looking at, you**
12 **know, different scenarios -- which I don't**
13 **think I was aware of that change on March 23rd,**
14 **so I'm assuming that I did not know about that**
15 **at this point.**

16 Q. Okay.

17 **A. Because I think that was later on.**

18 Q. Okay. Do you know when you did learn
19 about that?

20 **A. No, it -- I don't. It would have been, I**
21 **think, later in the summer. I just don't know.**

22 Q. Is it fair to say that if that change is
23 reflected in the May 19th budget, that you
24 found out about it sometime between March 23rd
25 and May 19th?

1 **A. Yeah. Yes.**

2 Q. Okay. Earlier, you said that the -- that
3 that central office reorganization -- which is
4 what it's called, that's what I'm going to call
5 it, that's what it's called in the board
6 documents -- was -- could have been discussed
7 in a budget and finance meeting, correct?

8 **A. The board's budget and finance meeting.**

9 Q. Yeah. So tell me about that. Is the
10 board's budget and finance committee, is that a
11 subcommittee or is it -- are all the members of
12 the Board of Education also members -- also
13 part of the board -- budget and finance
14 committee?

15 **A. It -- it's a committee of the whole, so**
16 **it's -- it's all board members, but they have a**
17 **chair. It's separate from the board chair.**

18 Q. Okay.

19 **A. It's the chair of the budget and finance**
20 **committee.**

21 Q. Do you remember who the chair was during
22 this time? And this time I'm referring to is
23 spring semester 2020.

24 **A. I think it was Gini Pupo-Walker, but I'm**
25 **not positive.**

1 Q. Okay. Do you normally attend the budget
2 and finance committee meetings, referring to
3 the budget and finance committee of the Board
4 of Education, not the council as a whole? Do
5 you normally attend those meetings?

6 **A. Yes.**

7 Q. Okay. Are those held at a typical time?
8 Like, for example, do they try to meet, you
9 know, X number of weeks before the full Board
10 of Education meeting or the regular Board of
11 Education meeting?

12 **A. Yeah, typically they are held before the**
13 **actual board meeting itself, which begins at**
14 **5 o'clock. So they may have a 3 o'clock or**
15 **3:30 or a 4 o'clock budget and finance**
16 **committee meeting before a scheduled School**
17 **Board meeting since board members already have**
18 **that on their calendar.**

19 **And -- and they'll have two, three or**
20 **four, depending on the -- the committee chair's**
21 **preference, meetings throughout the spring**
22 **until they actually approve a budget**
23 **proposal --**

24 Q. Okay.

25 **A. -- prior to the mayor making his funding**

1 **allocation to the council.**

2 Q. Are minutes kept for those meetings?

3 **A. No.**

4 Q. Okay. Do you know why not?

5 **A. I don't. I don't know that they keep**
6 **minutes for any of their committee meetings.**

7 Q. Okay.

8 **A. Some of them are televised.**

9 Q. Yes.

10 So if they were televised, then they
11 would be, to the best of your knowledge, on the
12 Metro Nashville Network YouTube channel?

13 **A. Yes.**

14 Q. Okay. Does it sound right to you that
15 there was a budget meeting on May -- on
16 April 30th, 2020?

17 **A. If that were a Tuesday, probably.**

18 Q. Okay.

19 **A. But it wouldn't be on a board meeting**
20 **date because they meet the second and fourth**
21 **Tuesdays of the month.**

22 Q. Okay. The second and fourth Tuesdays of
23 the month, okay.

24 **A. Yes.**

25 **Now, they could have scheduled something**

1 **that was on an off Tuesday, I just don't**
 2 **remember the dates.**
 3 Q. Okay. Do you know if any -- well, let me
 4 say it to you this way: On the Metro Nashville
 5 Network YouTube, it shows that there was a
 6 meeting on April 30th, 2020, of the budget and
 7 finance committee of the Board of Education.
 8 **A. Okay.**
 9 Q. And it shows that there was another
 10 meeting of the same body on May 14th, 2020.
 11 Do you recall attending any other budget
 12 and finance committee meetings at the Board of
 13 Education in the spring of 2020, other than on
 14 those two dates?
 15 **A. I -- I don't remember how many they had**
 16 **that particular year.**
 17 Q. Would you have gotten a calendar
 18 invitation for those?
 19 **A. Yes.**
 20 Q. Okay. And would you still have your
 21 calendar invitations for those?
 22 **A. I assume so.**
 23 Q. Okay. Could you look for those, if you
 24 were asked?
 25 **A. I would have someone help me look for**

1 **those.**
 2 Q. Okay. Do you know when Juneteenth became
 3 a paid holiday for Metro employees, Metro
 4 Nashville public school employees?
 5 **A. I think this coming year is the first**
 6 **year.**
 7 Q. Okay. So in June of 2021, it was not a
 8 paid holiday?
 9 **A. Correct.**
 10 Q. Okay. Do you know how much that cost?
 11 **A. Since it only affects 12-month employees,**
 12 **we don't have to hire substitutes, so it's**
 13 **really cost neutral.**
 14 Q. Okay.
 15 **A. People have an extra holiday.**
 16 Q. Okay. Do you recall seeing somewhere
 17 that to make Veterans Day a paid holiday, it
 18 was going to be around \$2 million?
 19 **A. Yes.**
 20 Q. Okay. Did you perform that calculation?
 21 **A. No. Human resources performed that.**
 22 Q. Okay. And did you also ask them to
 23 perform a calculation for the cost of
 24 Juneteenth?
 25 **A. No. Juneteenth had not been proposed at**

1 **that time.**
 2 Q. Okay.
 3 Who puts the money in the Capital Fund?
 4 How does that work?
 5 **A. Who puts the money in there?**
 6 Q. Yeah, how does that work?
 7 **A. It's really more of a question for Metro**
 8 **Finance.**
 9 Q. Okay. Do you go through the same budget
 10 process for the Capital Fund as you do for the
 11 operating fund?
 12 **A. No, it's a different process and on a**
 13 **different timeline. There is debt involved,**
 14 **issuance of bond debt to fund the capital**
 15 **budget. And so, it's something that's very**
 16 **heavily driven by Metro Finance and Metro**
 17 **Treasury regarding the -- the bonding**
 18 **capabilities or capacities of Metro Government.**
 19 **And the -- the mayor proposes a capital**
 20 **spending plan to the Metro Council, but there's**
 21 **no -- there's no timing of it as far as it has**
 22 **to go a certain time of year.**
 23 Q. Like with the operating budget where it
 24 has to be approved by --
 25 **A. June 30th.**

1 Q. -- June 30th.
 2 Is it like what you were describing
 3 earlier with the operating fund, where there is
 4 an actual fund that's shared by multiple
 5 departments that you can draw from?
 6 **A. Well, there's a fund that is set up for**
 7 **the -- the Capital Fund. And it's for the**
 8 **items that the Metro Council approves in the**
 9 **capital spending plan.**
 10 **And so, expenditures are coded to that**
 11 **Capital Fund as opposed to being coded to the**
 12 **operating fund when capital dollars are used.**
 13 Q. Did you ask anyone other than Mr. Stark,
 14 Mr. Lott -- well, let me ask it this way.
 15 Do you know if anyone in your department
 16 asked anyone other than Mr. Stark, Mr. Lott,
 17 Mr. Renfro, Mr. Lee, Mr. Proffitt or
 18 Mr. Burnett to look for expenses that could be
 19 capitalized instead of taken from the operating
 20 fund?
 21 **A. No. Based upon what the capital budget**
 22 **was intended to fund, those would be the only**
 23 **individuals that had a capital account that had**
 24 **capital funds to begin with.**
 25 Q. Okay. Does the -- does the Capital Fund

1 come from the Metro Government?
 2 **A. It does. It comes from the issuance of**
 3 **debt that the -- that the Metro Government**
 4 **issues.**
 5 Q. And when do they go through that process?
 6 You said it's not at a typical time?
 7 **A. It just -- it just depends on when the**
 8 **mayor wants to propose a capital spending plan.**
 9 Q. Is it yearly?
 10 **A. It can be. There have been years when we**
 11 **have not received any capital funding. We --**
 12 **there have been years where we received capital**
 13 **spending plan two times within a fiscal year.**
 14 **So it's not necessarily bound by -- by any time**
 15 **regulation.**
 16 Q. In 2019-2020, did you receive any capital
 17 funding?
 18 **A. I think so, but I'd have to -- again, I'd**
 19 **want to go back and verify.**
 20 Q. In 2020-2021, did you receive any capital
 21 funding?
 22 **A. I'm sure we did, yes.**
 23 Q. Why do you say you're sure you did,
 24 because --
 25 **A. Because it's more recent.**

1 Q. Okay. And Metro was doing pretty well
 2 during that year, to the best of your
 3 knowledge?
 4 **A. Yes.**
 5 Q. Okay. Are -- have you received any --
 6 well, for 2021-2022, have you or will you
 7 receive any capital funds from Metro?
 8 **A. We have.**
 9 Q. Okay. How much?
 10 **A. I don't remember off the top of my head.**
 11 Q. Okay. Is -- and is that available
 12 publicly?
 13 **A. Yes.**
 14 **It's for specific projects. A lot of**
 15 **them are new schools, school renovations,**
 16 **school buses, big projects.**
 17 Q. Okay. Did you ever tell Dr. Battle that
 18 certain positions were going to have to be
 19 eliminated or changed due to the budget?
 20 **A. I don't think so.**
 21 Q. Did Dr. Battle ever ask you if the budget
 22 required the elimination of positions or
 23 repurposing of positions?
 24 **A. She knew what the amounts that we needed**
 25 **to come up with to make our balance -- budget**

1 **balance, but we didn't talk specifics as far as**
 2 **positions.**
 3 Q. Okay. So she never asked you if that was
 4 required by the budget, correct?
 5 **A. Correct.**
 6 MS. HARBISON: I don't have any
 7 further questions.
 8 MS. STEINER: I'm sorry.
 9 MR. FOX: None for me.
 10 MS. STEINER: Can I ask a question?
 11 MR. FOX: Sure, yeah. Off the
 12 record?
 13 MS. STEINER: No, no, no, on the
 14 record.
 15 MR. FOX: On record.
 16
 17 FURTHER EXAMINATION
 18 QUESTIONS BY MS. STEINER:
 19 Q. Okay. If a position -- let me get out of
 20 here real quick.
 21 Okay, when you were the interim director,
 22 and I believe you testified to this earlier, if
 23 you were eliminating a position, you were
 24 honest with what you told the employee about
 25 why it was being eliminated, weren't you?

1 **A. Yes.**
 2 Q. Okay. And --
 3 **A. Dr. McGruder's the only one that I can**
 4 **remember eliminating when I was the interim**
 5 **director of schools.**
 6 Q. Okay. And you non -- you didn't
 7 eliminate her position, you just non-renewed
 8 her contract, correct?
 9 **A. That's correct. Yeah, I believe, yeah.**
 10 Q. Okay. Now, I want to show you this one
 11 first.
 12 MS. HARBISON: Let me make you host
 13 again. There we go.
 14 BY MS. STEINER:
 15 Q. Can you see this?
 16 **A. Yes, now I can.**
 17 Q. Okay. Now, do you see in this letter
 18 where -- to James Bailey, it's dated May 4th,
 19 2020, it's from Dr. Adrienne Battle?
 20 **A. Okay, this is the first time I've seen**
 21 **this one.**
 22 Q. Sure. I don't think you have seen this
 23 before, I just want to ask you a question about
 24 it.
 25 **A. (Witness viewing document.)**

1 **Okay.**

2 Q. Okay. Now, same as the other questions I
3 asked you earlier, was Dr. Battle under a duty
4 to be honest with Mr. Bailey about why he was
5 being removed as the principal at Whites Creek?

6 **A. I can't speak for Dr. Battle.**

7 Q. Well, do you think she was, as the
8 director of schools?

9 **A. Do I think she was?**

10 Q. Under a duty to be honest with the
11 workers who worked for Metro Schools?

12 **A. I would -- I would assume so.**

13 Q. Okay. And you were when you were the
14 interim, correct?

15 **A. Correct.**

16 Q. Okay. And do you see where this says
17 that he has lost his job due to the district's
18 reorganization and budget impact?

19 **A. Yes.**

20 Q. Did anyone at any point in time tell you
21 that we're going to remove Dr. Bailey from
22 Whites Creek because of the budget?

23 **A. No.**

24 Q. Do you know whether or not the budget --
25 whether or not the principal's position at

1 **A. Not yet.**

2 Q. Is it coming up yet?

3 **A. (Shaking head.)**

4 MS. HARBISON: Maybe stop the screen
5 share and start again. If you click that red
6 button.

7 MS. STEINER: That there?

8 MS. HARBISON: Yeah, that says stop.

9 Yeah, then just start it -- just share it

10 again. I think you maybe closed the document.

11 MS. STEINER: Yeah, I did.

12 BY MS. STEINER:

13 Q. Okay, can you see it?

14 **A. No.**

15 Q. Okay. Hang on. We'll get it up there.

16 Okay, now can you see it?

17 **A. I'm probably seeing stuff I shouldn't
18 see.**

19 Q. Yeah, that's fine. You're seeing other
20 stuff?

21 MS. HARBISON: No, no. Just stop
22 your share. Is the document open?

23 MS. STEINER: There it is.

24 MS. HARBISON: Okay, so click screen
25 share, share your screen again. We'll get

1 Whites Creek continued?

2 **A. I'm sure it did, yes.**

3 Q. Okay. And would you agree that this
4 letter to Dr. Bailey is -- is not true?

5 **A. Well, there would -- there would need to
6 continue to have a principal at Whites Creek
7 High School, so that really wouldn't have a
8 budgetary impact.**

9 Q. Okay. So this letter -- the reason given
10 for the -- the removal of James Bailey as set
11 forth by Dr. Battle in this letter, would you
12 agree, is just not true?

13 **A. I would -- I would -- I would agree that
14 the removal of Dr. Bailey as principal of
15 Whites Creek High School would not have a
16 budgetary impact.**

17 Q. Okay.

18 MS. STEINER: Can we have this marked
19 the next-numbered exhibit?

20 (WHEREUPON, a document was marked as
21 Exhibit Number 13.)

22 BY MS. STEINER:

23 Q. Now, got one -- just a couple more I want
24 to show you, then I will be through.

25 Okay. Now, can you see this?

1 there.

2 Okay, now hover over -- scroll
3 down -- yeah, that's the one.

4 MS. STEINER: I think that's it.

5 MS. HARBISON: Yeah.

6 BY MS. STEINER:

7 Q. Okay, now do you see it?

8 MR. FOX: There's a letter. Can you
9 zoom in?

10 MS. STEINER: Yeah.

11 BY MS. STEINER:

12 Q. Can you see it?

13 MR. FOX: A letter to Lilly Leffler?

14 MS. STEINER: Yes. May 4th, 2020,
15 letter to Lily Leffler.

16 MR. FOX: Zoom in a little bit more,
17 please. Little more. Okay.

18 BY MS. STEINER:

19 Q. Okay. Same thing with this letter
20 that's -- that goes to Lily Leffler, same date,
21 May 4th, I believe, 2020. Do you see where

22 Dr. Battle tells her that, "Due to district
23 reorganization and budget impact, your position
24 as executive director with Metro Schools will
25 be eliminated"? Do you see that?

1 **A. Yes.**

2 Q. Okay. Is it true that the executive
3 director position was not eliminated?

4 **A. Well, we still have executive directors.**

5 Q. Okay. And do you deal with the executive
6 directors?

7 **A. Just very little. They -- they deal
8 mainly with individual schools and school
9 principals.**

10 Q. Okay. And would you agree that this
11 letter is -- is false because her position was
12 not eliminated?

13 **A. Well, I -- I don't know exactly what she
14 was doing as an executive director compared to
15 what the current executive directors are doing,
16 so I assume that was part of the district
17 reorganization wording in the letter.**

18 Q. Okay, but would you agree that her
19 position -- that the executive -- there's no
20 executive director position eliminated in the
21 central office reorg that was presented to the
22 board, correct?

23 **A. I'm not sure what executive director of
24 schools support does or did in comparison to
25 the current executive directors that we have.**

1 **I don't know if there's a difference between
2 what she was doing and what the current
3 executive directors are doing.**

4 Q. Regardless of whether or not there may be
5 a difference or not a difference, would you
6 agree that this executive director position was
7 not eliminated?

8 MR. FOX: Objection to form.

9 **THE WITNESS: I'm not sure -- of
10 those five positions that were mentioned, I'm
11 not sure. It becomes complicated because with
12 a reorganization, it's -- I'm always just
13 looking for the net impact. And so, I don't
14 know as far as all the -- the different pieces
15 to get to that net impact would be. I just
16 knew that we were reducing five positions.**

17 BY MS. STEINER:

18 Q. Okay. Would you agree that the budget
19 did not require the elimination of her
20 executive director position?

21 MR. FOX: Objection to the form.

22 **THE WITNESS: Well, we did reduce
23 five positions, which had a budgetary impact,
24 but I just don't know how -- how this plays
25 into those five positions.**

1 BY MS. STEINER:

2 Q. Okay. Assuming it was not a part of
3 those five positions, would you agree that it
4 would not have an impact on any budget?

5 MR. FOX: Objection to the form.

6 **THE WITNESS: If it were not a part
7 of the five positions, then I'm assuming it
8 would not.**

9 BY MS. STEINER:

10 Q. Okay. And this letter would be incorrect
11 that was sent to Lily Leffler, correct?

12 MR. FOX: Objection to the form.

13 **THE WITNESS: Again, it -- I'm
14 referring to the district reorganization part
15 of the letter. I don't know -- I don't know
16 that part of it.**

17 (WHEREUPON, a document was marked as
18 Exhibit Number 14.)

19 BY MS. STEINER:

20 Q. Okay.

21 MS. STEINER: Okay, that's all.

22 MR. FOX: Thank you.

23 THE VIDEOGRAPHER: This concludes
24 today's deposition. The time is 2:50 p.m.

25 THE REPORTER: Ms. Steiner, did you

1 want to order this?

2 MS. STEINER: Yes.

3 THE REPORTER: Ms. Harbison, did you
4 still want a copy?

5 MS. HARBISON: Yes, please.

6 THE REPORTER: Mr. Fox, did you want
7 a copy?

8 MR. FOX: Yes, please.

9 FURTHER DEPONENT SAITH NOT
10 (At 2:50 p.m. CST)

REPORTER'S CERTIFICATE

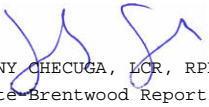
STATE OF TENNESSEE
COUNTY OF SUMNER

I, JENNY CHECUGA, Licensed Court Reporter,
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the foregoing deposition of CHRISTOPHER HENSON by
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typewritten form by me.

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